

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): November 16, 2010

NeoStem, Inc.

(Exact Name of Registrant as Specified in Charter)

Delaware

(State or Other Jurisdiction of Incorporation)

0-10909

(Commission File Number)

22-2343568

(IRS Employer Identification No.)

420 Lexington Avenue, Suite 450, New York, New York 10170
(Address of Principal Executive Offices)(Zip Code)

(212) 584-4180

Registrant's Telephone Number

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01. Entry into a Material Definitive Agreement.

Underwritten Offering

On November 16, 2010, NeoStem, Inc. (the “Company”) entered into an Underwriting Agreement (the “Underwriting Agreement”) with Cowen and Company, LLC, as representative of the underwriters named in the Underwriting Agreement (the “Underwriters”), relating to a public offering (the “Underwritten Offering”) by the Company underwritten on a firm commitment basis of 6,337,980 units (the “Underwritten Units”), with each Underwritten Unit consisting of one share of the Company’s common stock, par value \$0.001 per share (“Common Stock”) and a warrant (each, an “Underwritten Warrant”) to purchase 0.50 of a share of Common Stock. The public offering price for each Underwritten Unit is \$1.45 (\$1.34125 per Underwritten Unit, net of underwriting discount). In connection with the Underwriting Agreement, the Company has agreed to pay LifeTech Capital (a division of Aurora Capital, LLC) financial advisory fees equal to \$161,353, which amount will reduce the total underwriting discounts to be paid to the Underwriters. Each Underwritten Warrant will have an exercise price of \$1.85 per share, will be exercisable six months after issuance and will expire five years from the date of issuance. Underwritten Units will not be issued or certificated. The shares of Common Stock and the Underwritten Warrants are immediately separable and will be issued separately, but will be purchased together in the Underwritten Offering.

The Underwritten Offering is expected to close on November 19, 2010, contingent upon the satisfaction of a number of closing conditions, including, but not limited to, the completion of the concurrent Preferred Offering (as hereinafter defined and described).

The shares of Common Stock and the Underwritten Warrants, in each case included in the Underwritten Units (and the shares of Common Stock issuable from time to time upon exercise of the Underwritten Warrants) will be issued pursuant to a prospectus supplement (the “Underwritten Offering Prospectus Supplement”), to be dated as of November 16, 2010, which is being filed with the Securities and Exchange Commission (the “Commission”) in connection with a takedown from the Company’s shelf registration statement on Form S-3 (File No. 333-166169), which became effective on May 11, 2010, and the base prospectus dated May 19, 2010.

The Underwriting Agreement provides that the obligations of the Underwriters are subject to certain conditions precedent and that the Underwriters have agreed, severally and not jointly, to purchase all of the Underwritten Units sold under the Underwriting Agreement if any of the Underwritten Units are purchased. If an Underwriter defaults, the Underwriting Agreement provides that the purchase commitments of the non-defaulting Underwriters may be increased or the Underwriting Agreement may be terminated. Additionally, the Underwriting Agreement contains customary representations, warranties, and agreements by the Company, customary conditions to closing, indemnification obligations of the Company and the Underwriters, including for liabilities under the Securities Act of 1933, as amended, other obligations of the parties and termination provisions.

The foregoing descriptions of the terms of the Underwriting Agreement and the Underwritten Warrants do not purport to be complete and are subject to, and qualified in their entirety by reference to, the Underwriting Agreement and the form of Underwritten Warrant, which are filed herewith as Exhibits 1.1 and 4.1, respectively, and are incorporated herein by reference. The provisions of the Underwriting Agreement, including the representations and warranties contained therein, are not for the benefit of any party other than the parties to such agreement and are not intended as a document for investors and the public to obtain factual information about the current state of affairs of the parties to that document. Rather, investors and the public should look to other disclosures contained in the Company’s filings with the Commission.

Preferred Offering

On November 16, 2010, the Company entered into a placement agency agreement (the "Placement Agent Agreement") with Cowen and Company, LLC and LifeTech Capital (a division of Aurora Capital, LLC) (the "Placement Agents"), pursuant to which the Placement Agents agreed to use their reasonable best efforts to arrange for a sale (the "Preferred Offering") (to be conducted concurrently with the Underwritten Offering) of up to 10,582,011 units (the "Preferred Offering Units"), with each Preferred Offering Unit consisting of (i) one share (collectively, the "Preferred Shares") of Series E 7% Senior Convertible Preferred Stock, par value \$0.01 per share, of the Company ("Series E Preferred Stock"), (ii) a warrant (collectively, the "Preferred Offering Warrants") to purchase 0.25 of a share of Common Stock (or an aggregate of 1,322,486 warrants) and (iii) 0.0155 of a share of Common Stock (an aggregate of 164,418 shares). Each Preferred Offering Unit was priced at \$0.945, or gross proceeds of \$10 million. Each Preferred Offering Warrant will have a strike price of \$2.0874, will become exercisable after six months and will expire three years after the initial exercise date. Preferred Offering Units will not be issued or certificated. The Preferred Shares, Preferred Offering Warrants and the Common Stock are immediately separable and will be issued separately, but will be purchased together in the Preferred Offering. The securities included in the Preferred Offering Units will be issued without restrictive legends.

The Company has agreed to pay the Placement Agents a commission equal to 7.5% of the gross proceeds of the sale of Preferred Offering Units in the Preferred Offering. The Company will also reimburse the Placement Agents for certain legal and other expenses incurred by them. The Placement Agents will not receive any commission with respect to the shares of Common Stock issuable upon conversion or redemption of the Preferred Shares and exercise of the Preferred Offering Warrants. In no event will the total amount of compensation paid to the Placement Agents and other securities brokers and dealers upon completion of the Preferred Offering exceed 8.0% of the maximum gross proceeds of the Preferred Offering.

On November 16, 2010, the Company entered into definitive Securities Purchase Agreements (the "Securities Purchase Agreements") with each of the investors in the Preferred Offering (each, a "Purchaser"), pursuant to which such Purchasers agreed to purchase, and the Company agreed to sell, an aggregate of 10,582,011 Preferred Offering Units. The Stock Purchase Agreement contains certain covenants applicable to the Company, including limitations on its ability to incur debt and a negative pledge with respect to its assets (other than the assets of its Erye Pharmaceutical subsidiary).

The terms and conditions of the Series E Preferred Stock are governed by the Certificate of Designations for the Series E Preferred Stock (the "Certificate of Designations"), as described in Item 5.03 below.

The Preferred Offering is expected to close on November 19, 2010, contingent upon the satisfaction of a number of closing conditions, including, but not limited to, the completion of the concurrent Underwritten Offering (as described above).

The Preferred Shares, the Preferred Offering Warrants and the shares of Common Stock, in each case included in the Preferred Offering Units (and the shares of Common Stock issuable upon conversion or redemption of the Preferred Shares and the Common Stock issuable from time to time upon exercise of the Preferred Offering Warrants) will be issued pursuant to a prospectus supplement (the "Preferred Offering Prospectus Supplement"), to be dated as of November 16, 2010, which is being filed with the Commission in connection with a takedown from the Company's shelf registration statement on Form S-3 (File No. 333-166169), which became effective on May 11, 2010, and the base prospectus dated May 19, 2010.

The Placement Agent Agreement provides that the obligations of the Placement Agents and the Purchasers are subject to certain conditions precedent, including the absence of any material adverse change in the Company's business and the receipt of customary legal opinions, letters and certificates. Additionally, the Placement Agent Agreement contains customary representations, warranties, and agreements by the Company, customary conditions to closing, indemnification obligations of the Company and the Placement Agent, including for liabilities under the Securities Act of 1933, as amended, other obligations of the parties and termination provisions.

The foregoing descriptions of the terms of the Placement Agent Agreement, the Securities Purchase Agreement and the Preferred Offering Warrants, do not purport to be complete and are subject to, and qualified in their entirety by reference to, the Placement Agent Agreement, the Securities Purchase Agreement and the form of Preferred Offering Warrant, which are filed herewith as Exhibits 1.2, 10.1 and 4.2, respectively, and are incorporated herein by reference. The provisions of the Placement Agent Agreement and the Securities Purchase Agreement, including the representations and warranties contained therein, are not for the benefit of any party other than the parties to such agreements and are not intended as documents for investors and the public to obtain factual information about the current state of affairs of the parties to those documents and agreements. Rather, investors and the public should look to other disclosures contained in the Company's filings with the Commission.

Use of Proceeds

The Company estimates that the net proceeds from the concurrent Underwritten Offering and Preferred Offering, excluding the proceeds, if any, from the exercise of the Underwritten Warrants and the Preferred Offering Warrants, will be approximately \$16.7 million, after deducting the estimated underwriting discount, placement agent fees, financial advisory fees and estimated offering expenses payable by the Company. An aggregate of \$2.5 million of the proceeds from the Preferred Offering will be placed in escrow for a maximum of two and one half (2 1/2) years as security for the Company's obligations under the Certificate of Designations pertaining to the Preferred Shares.

The Company currently intends to use the net proceeds of the concurrent Underwritten Offering and Preferred Offering in connection with the PCT Merger (as defined below), including a \$3 million repayment of indebtedness owed by PCT, associated costs for the growth of the cord blood and adult stem cell banking, manufacturing and therapeutic business, expansion of the Company's business in Asia and completion of the Company's Beijing lab, development and acquisition of proprietary stem cell intellectual property and new technology and expansion of the Company's business into other countries. The Company intends to use the remaining net proceeds from the concurrent Underwritten Offering and Preferred Offering for marketing, working capital and other general corporate purposes.

Opinion of Counsel

A copy of the opinion of Lowenstein Sandler PC relating to the legality of the issuance and sale of the securities of the Company in each of the Underwritten Offering and the Preferred Offering is attached as Exhibit 5.1 hereto.

Item 3.03. Material Modification to Rights of Security Holders.

The information set forth under Item 5.03 below is incorporated herein by reference.

Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

In connection with the offering of the Preferred Shares, as described in Item 1.01 above, on November 16, 2010, the Company approved the Certificate of Designations to designate up to 10,582,011 Preferred Shares. The following is a summary of the material terms of the Preferred Shares set forth in the Certificate of Designations.

Each Preferred Share is entitled to a dividend on the liquidation preference (as described below) of 7% per annum, payable monthly in cash or in Common Stock subject to certain conditions. Each Preferred Share enjoys a liquidation preference of \$1.00 per share plus accrued and unpaid dividends. The Series E Preferred Stock has a maturity date of 30 months after the closing date. Monthly dividend and principal payments begin on the fourth month after closing, and can be made in stock or cash at the Company's option, provided the "Equity Conditions" (described below) are satisfied or holders of the Preferred Shares agree to waive the Equity Conditions for that payment period. If the Equity Conditions are not satisfied, the Company must make payments in cash. All payments made in stock will be at the VWAP Price (defined below). Payments of principal or dividends which are made in stock will be made in shares which are freely tradable ("Payment Shares"). The price of the shares will be calculated based on 92% of the average of the lowest five VWAPs of the 20 trading days prior to the payment date (the "VWAP Price"). Between 22 and 25 trading days prior to each payment date, the Company will inform holders what percentage of the upcoming amortization and dividend payment will be made in cash. Twenty-one trading days prior to each payment date, the Company will provide holders with freely trading shares valued at the dollar amount of the stock payment divided by 92% of the prior day's VWAP. Eleven trading days prior to each payment date, the Company will deliver an additional number of shares equal to the positive difference (if any) between such number of shares previously delivered and the number of shares valued at the dollar amount of the stock payment divided by the average of 92% of the five lowest Daily VWAPs during the immediately preceding ten trading days. The Company and the holders will "true up" the number of shares based on the five lowest VWAP prices during the previous 20 trading days.

The Company, at its option, may pre-pay the outstanding balance of the Preferred Shares in full or in part (in increments of no less than \$1,000,000) at 115% of the then outstanding balance, reducing to 110% after twelve months, with notice of not less than thirty days and adequate opportunity to convert. The Company may pre-pay a portion of the Preferred Shares in equity provided the “Equity Conditions” (described below) apply. The Company can pay in equity no more than 15% multiplied by the total dollar trading volume (using the daily VWAP) of the Common Stock for the 22 trading days prior to the notification date for any given amortization and dividend payment or any pre-payment, so long as the Equity Conditions are satisfied. The “Equity Conditions” will be satisfied if, on each day of the pricing period, (i) the Payment Shares are eligible for resale by the holders without restriction, (ii) the Company’s Common Stock is not suspended from trading on the AMEX Market or other trading market, (iii) the Payment Shares may be issued in full without violating any rules of the AMEX Market, (iv) there is no event of default or Trigger Event (as defined in the Certificate of Designations), (v) the Company has not provided the holders with material non-public information, (vi) there is an effective registration statement with respect to the Payment Shares which complies with all applicable securities laws, (vii) the Company’s transfer agent is participating in the DTC Fast Automated Securities Transfer Program and (viii) the Payment Shares will be duly authorized, fully paid and non-assessable.

The Preferred Shares will be convertible at an initial conversion price of \$2.0004. The conversion price is subject to adjustment as provided in the Certificate of Designations. The Preferred Shares and the associated warrants will have “weighted average” anti-dilution protection, and will not have voting rights except in certain limited circumstances (as described in the Certificate of Designations).

The Certificate of Designations further provides that the total number of shares of Common Stock issued or issuable to the holders of any Preferred Shares shall not (when aggregated with any shares of Common Stock already issued in respect of all of the Preferred Shares) exceed the maximum number of shares of Common Stock which the Company can so issue pursuant to any rule or regulation of the NYSE Amex (or any other national securities exchange on which the Company’s Common Stock trades), subject to equitable adjustments from time to time for stock splits, stock dividends, combinations, capital reorganizations and similar events relating to shares of the Company’s Common Stock occurring after the closing of the Preferred Offering. In accordance with the provisions of the Certificate of Designations no shares of Common Stock in excess of 19.9% of NBS outstanding common stock less the common stock issued in the concurrent Preferred Offering and Underwritten Offering shall be issued by the Company (x) under the Preferred Warrants and (y) under the Preferred Shares, whether by reason of conversion, redemption or otherwise, and no voting rights may be exercised, until after approval of the Company’s stockholders.

In addition, the Certificate of Designations limits the number of shares of the Company's Common Stock that may be issued to each individual holder of the Preferred Shares such that the Company may not at any time issue to an individual holder shares of the Company's Common Stock if the number of shares of Common Stock to be issued pursuant to such issuance would exceed, when aggregated with all other shares of the Company's Common Stock beneficially owned by such holder at such time (as determined in accordance with relevant Exchange Act rules), the number of shares of Common Stock that would result in the holder beneficially owning (as determined in accordance with relevant Exchange Act rules) more than 4.9% (the "Beneficial Ownership Limitation") of the then issued and outstanding Common Stock. Each holder shall have the right (with respect to itself only) to (i) waive such ownership cap upon not less than sixty-five (65) days' prior notice to us; (ii) at any time and from time to time immediately reduce the Beneficial Ownership Limitation; and (iii) (subject to waiver) at any time and from time to time, increase the Beneficial Ownership Limitation immediately in the event of the announcement as pending or planned of a Change in Control Transaction (as defined in the Certificate of Designations).

The Preferred Shares are subject to mandatory repurchase in cash at a premium depending on the date of repurchase upon certain events, including certain change in control transactions, payment defaults, and certain breaches of representations, warranties and covenants.

The foregoing description of the terms of the Certificate of Designations, does not purport to be complete and are subject to, and qualified by its entirety by reference to, the Certificate of Designations, which is filed herewith as Exhibit 3.1 and is incorporated herein by reference.

Item 8.01. Other Events.

On November 16, 2010, the Company issued a press release announcing the pricing of the offerings described above. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

Forward-Looking Statements

Certain statements in this Current Report on Form 8-K are forward-looking statements that involve a number of risks and uncertainties. Such forward-looking statements include statements about the expected settlement of the sale and purchase of securities described herein and the Company's receipt of net proceeds therefrom. For such statements, the Company claims the protection of the Private Securities Litigation Reform Act of 1995. Actual events or results may differ materially from the Company's expectations. Factors that could cause actual results to differ materially from the forward-looking statements include, but are not limited to, the Company's ability to satisfy applicable closing conditions under the Underwriting Agreement, the Placement Agent Agreement and the Securities Purchase Agreement. Additional factors that could cause actual results to differ materially from those stated or implied by the Company's forward-looking statements are disclosed in the Preferred Offering Prospectus Supplement, the Underwritten Offering Prospectus Supplement and the Company's reports filed with the Securities and Exchange Commission.

This Current Report on Form 8-K may be deemed to be solicitation material in respect of the proposed Merger with Progenitor Cell Therapy, LLC. The directors and executive officers of each of NeoStem and PCT may be deemed to be participants in the solicitation of proxies from the holders of NeoStem Common Stock in respect of the proposed transaction. Information about the directors and executive officers of NeoStem is set forth in NeoStem's Definitive Proxy Statement on Schedule 14A filed with the SEC on April 30, 2010 in connection with its June 2010 Annual Meeting of Stockholders. Investors may obtain additional information regarding NeoStem and its directors and executive officers, and PCT and its Board of Managers and executive officers, in connection with the proposed Merger by reading the S-4 and the prospectus/joint proxy statement contained therein, when it becomes available. The S-4 will contain a prospectus/joint proxy statement pertaining to (a) the special meeting of stockholders of NeoStem at which NeoStem's stockholders will be asked to approve the NeoStem securities issuable in the Merger and (b) the special meeting of Members of PCT at which PCT's Members will be asked to approve the Merger Agreement and Merger.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

The following exhibits are filed with this Current Report on Form 8-K:

Exhibit No.	Description
1.1	Underwriting Agreement, dated November 16, 2010, by and between NeoStem, Inc. and Cowen and Company, LLC
1.2	Placement Agent Agreement, dated November 16, 2010, by and between NeoStem, Inc. and Cowen and Company, LLC (as representative for the placement agents)
3.1	Certificate of Designations for the Series E 7% Senior Convertible Preferred Stock
4.1	Form of Underwritten Warrant
4.2	Form of Preferred Offering Warrant
5.1	Opinion of Lowenstein Sandler PC
10.1	Securities Purchase Agreement, dated November 16, 2010, by and among NeoStem, Inc., JGB Management Inc. and certain Purchasers
10.2	Escrow Agreement with Wells Fargo Bank, National Association, to be executed at closing
23.1	Consent of Lowenstein Sandler PC (included in Opinion of Lowenstein Sandler PC filed as Exhibit 5.1)
99.1	Press release of NeoStem, Inc., dated November 16, 2010

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Company has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

NEOSTEM, INC.

By: /s/ Catherine M. Vaczy

Name: Catherine M. Vaczy

Title: Vice President and General Counsel

Dated: November 16, 2010

6,337,980 Shares

Warrants to Purchase 3,168,990 Shares

NEOSTEM, INC.

UNDERWRITING AGREEMENT

November 16, 2010

COWEN AND COMPANY, LLC

As Representative of the several Underwriters

1221 Avenue of the Americas

New York, New York 10020

Dear Sirs:

1. **INTRODUCTORY.** NeoStem, Inc., a Delaware corporation (the "Company"), proposes to sell, pursuant to the terms of this Agreement, to the several underwriters named in Schedule I hereto (the "Underwriters," or, each, an "Underwriter"), (i) an aggregate of 6,337,980 shares of common stock, \$0.001 par value (the "Common Stock"), of the Company (the "Stock") and (ii) warrants to purchase an aggregate of 3,168,990 shares of Common Stock (the "Warrants") in the form attached hereto as Exhibit H. The shares of Common Stock underlying the Warrants are hereinafter referred to as the "Warrant Shares". Cowen and Company, LLC ("Cowen") is acting as representative of the several Underwriters and in such capacity is hereinafter referred to as the "Representative."

2. **REPRESENTATIONS AND WARRANTIES OF THE COMPANY.** The Company represents and warrants to the several Underwriters, as of the date hereof and as of the Closing Date (as defined below), and agrees with the several Underwriters, that:

(a) A registration statement of the Company on Form S-3 (File No. 333-166169) (including all pre-effective amendments thereto and all post-effective amendments thereto filed before execution of this Agreement, the "Initial Registration Statement") in respect of the Stock and Warrants has been filed with the Securities and Exchange Commission (the "Commission") pursuant to Rule 415 under the Securities Act of 1933, as amended (the "Securities Act"). The Company meets the requirements for use of Form S-3 under the Securities Act and the rules and regulations of the Commission thereunder (the "Rules and Regulations"). The Initial Registration Statement and any post-effective amendment thereto, each in the form heretofore made available to you, and, excluding exhibits thereto, to you for each of the other Underwriters, have been declared effective by the Commission. The proposed offering of the Stock and Warrants may be made pursuant to General Instruction I.B.1. of Form S-3. Other than (i) a registration statement, if any, increasing the size of the offering filed pursuant to Rule 462(b) under the Securities Act and the Rules and Regulations (a "Rule 462(b) Registration Statement") and (ii) the Prospectus (as defined below) contemplated by this Agreement to be filed pursuant to Rule 424(b) of the Rules and Regulations in accordance with Section 4(a) hereof and (iii) any Issuer Free Writing Prospectus (as defined below), no other document with respect to the offer and sale of the Stock and Warrants has heretofore been filed with the Commission. No stop order suspending the effectiveness of the Initial Registration Statement, any post-effective amendment thereto or the Rule 462(b) Registration Statement, if any, has been issued and no proceeding for that purpose or pursuant to Section 8A of the Securities Act has been initiated or threatened by the Commission (any preliminary prospectus included in the Initial Registration Statement or filed with the Commission pursuant to Rule 424(a) of the Rules and Regulations is hereinafter called a "Preliminary Prospectus"). The various parts of the Initial Registration Statement and the Rule 462(b) Registration Statement, if any, in each case including all exhibits thereto and including (i) the information contained in the Prospectus filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations and deemed by virtue of Rules 430A, 430B and 430C under the Securities Act to be part of the Initial Registration Statement at the time it became effective and (ii) the documents incorporated by reference in the Rule 462(b) Registration Statement at the time the Rule 462(b) Registration Statement became effective, are hereinafter collectively called the "Registration Statements." The base prospectus included in the Initial Registration Statement at the time of effectiveness thereof (the "Base Prospectus"), as supplemented by the final prospectus supplement relating to the offer and sale of the Stock and Warrants, in the form filed pursuant to and within the time limits described in Rule 424(b) under the Rules and Regulations, is hereinafter called the "Prospectus."

Any reference herein to any Registration Statement, Base Prospectus, Preliminary Prospectus or the Prospectus shall be deemed to refer to and include the documents incorporated by reference therein. Any reference to any amendment or supplement to any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any documents filed after the date of such Preliminary Prospectus or the Prospectus under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and incorporated by reference in such Preliminary Prospectus or Prospectus, as the case may be. Any reference to any amendment to the Registration Statements shall be deemed to refer to and include any annual report of the Company filed pursuant to Section 13(a) or 15(d) of the Exchange Act after the date of this Agreement that is incorporated by reference in the Registration Statements.

(b) As of the Applicable Time (as defined below) and as of the Closing Date, neither (i) the General Use Free Writing Prospectus(es) (as defined below) issued at or prior to the Applicable Time, the Pricing Prospectus (as defined below) and the information included on Schedule III hereto, if any, all considered together (collectively, the "General Disclosure Package"), (ii) any individual Limited Use Free Writing Prospectus (as defined below), nor (iii) any bona fide electronic road show (as defined in Rule 433(h)(5) of the Rules and Regulations that has been made available without restriction to any person), when considered together with the General Disclosure Package, included or will include any untrue statement of a material fact or omitted or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided, however*, that the Company makes no representations or warranties as to information contained in or omitted from the Pricing Prospectus, in reliance upon, and in conformity with, written information furnished to the Company through the Representative by or on behalf of any Underwriter specifically for inclusion therein, which information the parties hereto agree is limited to the Underwriter's Information as defined in Section 17. As used in this paragraph (b) and elsewhere in this Agreement:

“Applicable Time” means 9:00 a.m., New York time, on the date of this Agreement or such other time as agreed to by the Company and the Representative.

“Pricing Prospectus” means the Preliminary Prospectus, if any, and the Base Prospectus, each as amended and supplemented immediately prior to the Applicable Time, including any document incorporated by reference therein and any prospectus supplement deemed to be a part thereof.

“Issuer Free Writing Prospectus” means any “issuer free writing prospectus,” as defined in Rule 433 of the Rules and Regulations relating to the Stock and Warrants in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company’s records pursuant to Rule 433(g) of the Rules and Regulations.

“General Use Free Writing Prospectus” means any Issuer Free Writing Prospectus that is identified on Schedule II to this Agreement.

“Limited Use Free Writing Prospectuses” means any Issuer Free Writing Prospectus that is not a General Use Free Writing Prospectus.

(c) No order preventing or suspending the use of any Preliminary Prospectus, any Issuer Free Writing Prospectus or the Prospectus relating to the proposed offering of the Stock and Warrants has been issued by the Commission, and no proceeding for that purpose or pursuant to Section 8A of the Securities Act has been instituted or, to the Company’s Knowledge, threatened by the Commission, and each Preliminary Prospectus, at the time of filing thereof, conformed in all material respects to the requirements of the Securities Act and the Rules and Regulations, and did not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided, however*, that the Company makes no representations or warranties as to information contained in or omitted from any Preliminary Prospectus, in reliance upon, and in conformity with, written information furnished to the Company through the Representative by or on behalf of any Underwriter specifically for inclusion therein, which information the parties hereto agree is limited to the Underwriter’s Information as defined in Section 17.

(d) At the respective times the Registration Statements and any amendments thereto became or become effective, at the date of this Agreement and at the Closing Date, each Registration Statement and any amendments thereto conformed and will conform in all material respects to the requirements of the Securities Act and the Rules and Regulations and did not and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading; and the Prospectus and any amendments or supplements thereto, at the time the Prospectus or any amendment or supplement thereto was issued and at the Closing Date, conformed and will conform in all material respects to the requirements of the Securities Act and the Rules and Regulations and did not and will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; *provided, however*, that the foregoing representations and warranties in this paragraph (d) shall not apply to information contained in or omitted from the Registration Statements or the Prospectus, or any amendment or supplement thereto, in reliance upon, and in conformity with, written information furnished to the Company through the Representative by or on behalf of any Underwriter specifically for inclusion therein, which information the parties hereto agree is limited to the Underwriter’s Information (as defined in Section 17).

(e) Each Issuer Free Writing Prospectus, as of its issue date and at all subsequent times through the completion of the public offer and sale of the Stock and Warrants or until any earlier date that the Company notified or notifies the Representative as described in Section 4(f), did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement, Pricing Prospectus or the Prospectus, including any document incorporated by reference therein and any prospectus supplement deemed to be a part thereof that has not been superseded or modified, or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances prevailing at the subsequent time, not misleading.

(f) The documents incorporated by reference in the Prospectus, when they were filed with the Commission conformed in all material respects to the requirements of the Securities Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder and none of such documents contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and any further documents so filed and incorporated by reference in the Prospectus, when such documents are filed with Commission will conform in all material respects to the requirements of the Securities Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(g) The Company has not, directly or indirectly, distributed and will not distribute any offering material in connection with the offering and sale of the Stock and Warrants other than any Preliminary Prospectus, the General Disclosure Package, the Prospectus and other materials, if any, permitted under the Securities Act and consistent with Section 4(b) below. The Company will file with the Commission all Issuer Free Writing Prospectuses (other than a “road show,” as described in Rule 433(d)(8) of the Rules and Regulations) in the time and manner required under Rules 163(b)(2) and 433(d) of the Rules and Regulations.

(h) At the time of filing the Initial Registration Statement, any 462(b) Registration Statement and any post-effective amendments thereto, and at the date hereof, the Company was not, and the Company currently is not, an “ineligible issuer,” as defined in Rule 405 of the Rules and Regulations.

(i) The Company and each of its subsidiaries (as defined in Section 15), including the PRC Entities (as defined below), have been duly organized and are validly existing as corporations or other legal entities in good standing (or the foreign equivalent thereof) under the laws of their respective jurisdictions of organization. The Company and each of its subsidiaries are duly qualified to do business and are in good standing as foreign corporations or other legal entities in each jurisdiction in which their respective ownership or lease of property or the conduct of their respective businesses requires such qualification and have all power and authority (corporate or other) necessary to own or hold their respective properties and to conduct the businesses in which they are engaged, except where the failure to so qualify or have such power or authority would not (i) have, singularly or in the aggregate, a material adverse effect on the condition (financial or otherwise), results of operations, assets, business or prospects of the Company and its subsidiaries taken as a whole, or (ii) impair in any material respect the ability of the Company to perform its obligations under this Agreement or to consummate any transactions contemplated by this Agreement, the General Disclosure Package or the Prospectus (any such effect as described in clauses (i) or (ii), a “Material Adverse Effect”). The Company owns or controls, directly or indirectly, only the following corporations, partnerships, limited liability partnerships, limited liability companies, associations or other entities: NeoStem (China), Inc., China Biopharmaceutical Holdings, Inc., Stem Cell Technologies, Inc., NeoStem Therapies, Inc., Qingdao Niao Bio-Technology Ltd., Beijing Ruijieao Bio-Technology Ltd. and Suzhou Erye Pharmaceuticals Ltd.

(j) This Agreement has been duly authorized, executed and delivered by the Company.

(k) The Stock to be issued and sold by the Company to the Underwriters hereunder has been duly and validly authorized and, when issued and delivered against payment therefor as provided herein, will be duly and validly issued, fully paid and nonassessable and free of any preemptive or similar rights and will conform in all material respects to the description thereof contained in the General Disclosure Package and the Prospectus. The Warrants have been duly authorized, and when executed and delivered by the Company, will constitute valid and binding obligations of the Company enforceable in accordance with their terms, except that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, affecting creditors’ rights generally. The Warrant Shares have been duly authorized and reserved for issuance pursuant to the terms of the Warrants, and when issued by the Company upon valid exercise of the Warrants and payment of the exercise price, will be duly and validly issued, fully paid and nonassessable and free of any preemptive or similar rights and will conform in all material respects to the description thereof contained in the General Disclosure Package and the Prospectus.

(l) The Company has an authorized capitalization as set forth under the heading “Description of Capital Stock” in the Pricing Prospectus, and all of the issued shares of capital stock of the Company have been duly and validly authorized and issued, are fully paid and non-assessable, have been issued in compliance with federal and state securities laws, and conform to the description thereof contained in the General Disclosure Package and the Prospectus. As of the date of this Agreement, there were 57,613,794 shares of Common Stock issued and outstanding and 10,000 shares of preferred stock of the Company issued and outstanding and 30,940,242 shares of Common Stock were issuable upon the exercise of all options, warrants and convertible securities outstanding as of such date. All of the Company’s options, warrants and other rights to purchase or exchange any securities for shares of the Company’s capital stock have been duly authorized and validly issued and were issued in compliance with federal and state securities laws. None of the outstanding shares of Common Stock was issued in violation of any preemptive rights, rights of first refusal or other similar rights to subscribe for or purchase securities of the Company. There are no authorized or outstanding shares of capital stock, options, warrants, preemptive rights, rights of first refusal or other rights to purchase, or equity or debt securities convertible into or exchangeable or exercisable for, any capital stock of the Company or any of its subsidiaries other than those described above or accurately described in the General Disclosure Package. The description of the Company’s stock option, stock bonus and other stock plans or arrangements, and the options or other rights granted thereunder, as described in the General Disclosure Package and the Prospectus, accurately and fairly present the information required to be shown with respect to such plans, arrangements, options and rights.

(m) All the outstanding shares of capital stock (if any) of each subsidiary of the Company have been duly authorized and validly issued, are fully paid and nonassessable and, except to the extent set forth in the General Disclosure Package or the Prospectus, are owned by the Company directly or indirectly through one or more wholly-owned subsidiaries, free and clear of any claim, lien, encumbrance, security interest, restriction upon voting or transfer or any other claim of any third party.

(n) The execution, delivery and performance of this Agreement by the Company, the issue and sale of the Stock and Warrants by the Company and the consummation of the transactions contemplated hereby will not (with or without notice or lapse of time or both) (i) conflict with or result in a breach or violation of any of the terms or provisions of, constitute a default or a Debt Repayment Triggering Event (as defined below) under, give rise to any right of termination or other right or the cancellation or acceleration of any right or obligation or loss of a benefit under, or give rise to the creation or imposition of any lien, encumbrance, security interest, claim or charge upon any property or assets of the Company or any subsidiary pursuant to, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, (ii) result in any violation of the provisions of the charter or by-laws (or analogous governing instruments, as applicable) of the Company or any of its subsidiaries or (iii) result in any violation of any law, statute, rule, regulation, judgment, order or decree of any court or governmental agency or body, domestic or foreign, having jurisdiction over the Company or any of its subsidiaries or any of their properties or assets; except in the cases of clauses (i) and (iii), to the extent that any such conflict, breach, violation or default would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. A “Debt Repayment Triggering Event” means any event or condition that gives, or with the giving of notice or lapse of time would give the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder’s behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company of any of its subsidiaries.

(o) Except for the registration of the Stock and Warrants under the Securities Act, Exchange Act and applicable state securities laws, the Financial Industry Regulatory Authority (“FINRA”) and the NYSE Amex in connection with the purchase and distribution of the Stock and Warrants by the Underwriters and the listing of the Stock and Warrant Shares on the NYSE Amex, no consent, approval, authorization or order of, or filing, qualification or registration (each an “Authorization”) with, any court, governmental or non-governmental agency or body, foreign or domestic having jurisdiction over the Company or any of its properties or assets which has not been made, obtained or taken and is not in full force and effect, is required for the execution, delivery and performance of this Agreement by the Company, the offer or sale of the Stock and Warrants or the consummation of the transactions contemplated hereby. All corporate approvals (including those of stockholders) necessary for the Company to consummate the transactions contemplated by this Agreement have been obtained and are in effect.

(p) Each of (i) Holtz Rubenstein Reminick LLP, who have audited certain financial statements included or incorporated by reference in the Registration Statements, the General Disclosure Package and the Prospectus, (ii) Deloitte & Touche LLP, and (iii) EisnerAmper LLP, who have audited certain financial statements included or incorporated by reference in the Registration Statements, the General Disclosure Package and the Prospectus, is an independent registered public accounting firm with respect to the entity to which such accounting firm has provided an audit within the meaning of Article 2-01 of Regulation S-X and the Public Company Accounting Oversight Board (United States) (the “PCAOB”).

(q) The financial statements, together with the related notes and schedules, included or incorporated by reference in the General Disclosure Package, the Prospectus and in each Registration Statement fairly present the financial position and the results of operations and changes in financial position of the Company and its consolidated subsidiaries and other consolidated entities at the respective dates or for the respective periods therein specified. Such statements and related notes and schedules have been prepared in accordance with the generally accepted accounting principles in the United States (“GAAP”) applied on a consistent basis throughout the periods involved except as may be set forth in the related notes included or incorporated by reference in the General Disclosure Package. The financial statements, together with the related notes and schedules, included or incorporated by reference in the General Disclosure Package and the Prospectus comply as to form in all material respects with Regulation S-X. No other financial statements or supporting schedules or exhibits are required by Regulation S-X to be described, included or incorporated by reference in the Registration Statements, the General Disclosure Package or the Prospectus. The pro forma financial statements and other pro forma financial information included or incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus present fairly the information shown therein, have been prepared in accordance with the Commission’s rules and guidelines with respect to pro forma financial statements, have been properly compiled on the pro forma bases described therein, and, in the opinion of the Company, the assumptions used in the preparation thereof are reasonable and the adjustments used therein are appropriate to give effect to the transactions or circumstances referred to therein. The summary and selected financial data included or incorporated by reference in the General Disclosure Package, the Prospectus and each Registration Statement fairly present the information shown therein as at the respective dates and for the respective periods specified and are derived from the consolidated financial statements set forth or incorporated by reference in the Registration Statement, the Pricing Prospectus and the Prospectus and other financial information. All information contained in the Registration Statement, the General Disclosure Package and the Prospectus regarding “non-GAAP financial measures” (as defined in Regulation G) complies with Regulation G and Item 10 of Regulations S-K, to the extent applicable.

(r) Neither the Company nor any of its subsidiaries has sustained, since the date of the latest audited financial statements included or incorporated by reference in the General Disclosure Package, any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the General Disclosure Package; and, since such date, there has not been any change in the capital stock or long-term debt of the Company or any of its subsidiaries, or any material adverse changes, or any development involving a prospective material adverse change, in or affecting the business, assets, general affairs, management, financial position, prospects, stockholders' equity or results of operations of the Company and its subsidiaries taken as a whole, otherwise than as set forth or contemplated in the General Disclosure Package.

(s) Except as forth in the General Disclosure Package, there is no legal or governmental proceeding to which the Company or any of its subsidiaries is a party or of which any property or assets of the Company or any of its subsidiaries is the subject, including any proceeding before the United States Food and Drug Administration of the U.S. Department of Health and Human Services ("FDA") or comparable federal, state, local or foreign governmental bodies, including but not limited to the State Food and Drug Administration of China (it being understood that the interaction between the Company and the FDA and such comparable governmental bodies relating to the clinical development and product approval process shall not be deemed proceedings for purposes of this representation), which is required to be described in the Registration Statement, the General Disclosure Package or the Prospectus or a document incorporated by reference therein and is not described therein, or which, singularly or in the aggregate, if determined adversely to the Company or any of its subsidiaries, could reasonably be expected to have a Material Adverse Effect; and to the best of the Company's knowledge ("Knowledge"), no such proceedings are threatened or contemplated by governmental authorities or threatened by others. The Company is in compliance with all applicable federal, state, local and foreign laws, regulations, orders and decrees governing its business as prescribed by the FDA, or any other federal, state or foreign agencies or bodies engaged in the regulation of pharmaceuticals or biohazardous substances or materials, except where noncompliance would not, singly or in the aggregate, have a Material Adverse Effect. All preclinical and clinical studies conducted by or on behalf of the Company to support approval for commercialization of the Company's products have been conducted by the Company, or to the Company's knowledge by third parties, in compliance with all applicable federal, state or foreign laws, rules, orders and regulations, except for such failure or failures to be in compliance as could not reasonably be expected to have, singly or in the aggregate, a Material Adverse Effect.

(t) Neither the Company nor any of its subsidiaries (i) is in violation of its charter or by-laws (or analogous governing instrument, as applicable), (ii) is in default in any respect, and no event has occurred which, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it is bound or to which any of its property or assets is subject (including, without limitation, those administered by the FDA or by any foreign, federal, state or local governmental or regulatory authority performing functions similar to those performed by the FDA) or (iii) is in violation in any respect of any law, ordinance, governmental rule, regulation or court order, decree or judgment to which it or its property or assets may be subject except, in the case of clauses (ii) and (iii) of this paragraph (t), for any violations or defaults which, singularly or in the aggregate, would not have a Material Adverse Effect.

(u) The Company possess all licenses, certificates, authorizations and permits issued by, and have made all declarations and filings with, the appropriate local, state, federal or foreign regulatory agencies or bodies (including, without limitation, those administered by the FDA or by any foreign, federal, state or local governmental or regulatory authority performing functions similar to those performed by the FDA) which are necessary or desirable for the ownership of their respective properties or the conduct of their respective businesses as described in the General Disclosure Package and the Prospectus (collectively, the “Governmental Permits”), except where any failures to possess or make the same, singularly or in the aggregate, would not have a Material Adverse Effect. The Company is in compliance with all such Governmental Permits and all such Governmental Permits are valid and in full force and effect, except, in either case, where the validity or failure to be in full force and effect would not, singularly or in the aggregate, have a Material Adverse Effect. The Company has not received notification of any revocation, modification, suspension, termination or invalidation (or proceedings related thereto) of any such Governmental Permit and to the Knowledge of the Company, no event has occurred that allows or results in, or after notice or lapse of time or both would allow or result in, revocation, modification, suspension, termination or invalidation (or proceedings related thereto) of any such Governmental Permit. The studies, tests and preclinical or clinical trials conducted by or on behalf of the Company that are described in the General Disclosure Package and the Prospectus (the “Company Studies and Trials”) were and, if still pending, are being, conducted in all material respects in accordance with experimental protocols, procedures and controls pursuant to, where applicable, accepted professional scientific standards; the descriptions of the results of the Company Studies and Trials contained in the General Disclosure Package and Prospectus are accurate in all material respects; and the Company has not received any notices or correspondence from the FDA or any foreign, state or local governmental body exercising comparable authority requiring the termination, suspension or material modification of any Company Studies or Trials which termination, suspension or material modification would reasonably be expected to have a Material Adverse Effect.

(v) Neither the Company nor any of its subsidiaries is, and after giving effect to the offering of the Stock and Warrants and the application of the proceeds thereof as described in the General Disclosure Package and the Prospectus, will not become an “investment company” within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission thereunder.

(w) Neither the Company nor, to the Company’s Knowledge, any of its officers, directors or affiliates has taken or will take, directly or indirectly, any action designed or intended to stabilize or manipulate the price of any security of the Company, or which caused or resulted in, or which might in the future reasonably be expected to cause or result in, stabilization or manipulation of the price of any security of the Company.

(x) The Company and its subsidiaries own or possess the valid right to use all (i) valid and enforceable patents, patent applications, trademarks, trademark registrations, service marks, service mark registrations, Internet domain name registrations, copyrights, copyright registrations, licenses, trade secret rights (“Intellectual Property Rights”) and (ii) inventions, software, works of authorships, trade marks, service marks, trade names, databases, formulae, know how, Internet domain names and other intellectual property (including trade secrets and other unpatented and/or unpatentable proprietary confidential information, systems, or procedures) (collectively, “Intellectual Property Assets”) necessary to conduct their respective businesses as currently conducted, and as proposed to be conducted and described in the General Disclosure Package and the Prospectus. The Company and its subsidiaries have not received any opinion from their legal counsel concluding that any activities of their respective businesses infringe, misappropriate, or otherwise violate, valid and enforceable Intellectual Property Rights of any other person, and, except as set forth in the General Disclosure Package and the Prospectus, have not received written notice of any challenge, which is to their Knowledge still pending, by any other person to the rights of the Company and its subsidiaries with respect to any Intellectual Property Rights or Intellectual Property Assets owned or used by the Company or its subsidiaries. To the Knowledge of the Company, except as described in the Registration Statement, the General Disclosure Package and the Prospectus, the Company and its subsidiaries’ respective businesses as now conducted do not give rise to any infringement of, any misappropriation of, or other violation of, any valid and enforceable Intellectual Property Rights of any other person. All licenses for the use of the Intellectual Property Rights described in the General Disclosure Package and the Prospectus are valid, binding upon, and enforceable by or against the parties thereto in accordance to its terms. The Company has complied in all material respects with, and is not in breach nor has received any asserted or threatened claim of breach of any Intellectual Property license that has not been resolved, and to the Knowledge of the Company there has been no unresolved breach or anticipated breach by any other person to any Intellectual Property license, except where such breach, singularly or in the aggregate, would not have a Material Adverse Effect. Except as described in the General Disclosure Package, to the Knowledge of the Company there are no unresolved claims against the Company alleging the infringement by the Company of any patent, trademark, service mark, trade name, copyright, trade secret, license in or other intellectual property right or franchise right of any person, except to the extent that any such claim does not have a Material Adverse Effect. The Company has taken reasonable steps to protect, maintain and safeguard its Intellectual Property Rights, including the execution of appropriate nondisclosure and confidentiality agreements. The consummation of the transactions contemplated by this Agreement will not result in the loss or impairment of or payment of any additional amounts with respect to, nor require the consent of any other person in respect of, the Company’s right to own, use, or hold for use any of the Intellectual Property Rights as owned, used or held for use in the conduct of the business as currently conducted. The Company has taken the necessary actions to obtain ownership of all works of authorship and inventions made by its employees, consultants and contractors during the time they were employed by or under contract with the Company and which relate to the Company’s business. All key employees have signed confidentiality and invention assignment agreements with the Company.

(y) The Company and each of its subsidiaries have good and marketable title in fee simple to, or have valid rights to lease or otherwise use, all items of real or personal property which are material to the business of the Company and its subsidiaries taken as a whole, in each case free and clear of all liens, encumbrances, security interests, claims and defects that do not, singularly or in the aggregate, materially affect the value of such property and do not interfere with the use made and proposed to be made of such property by the Company or any of its subsidiaries; and all of the leases and subleases material to the business of the Company and its subsidiaries, considered as one enterprise, and under which the Company or any of its subsidiaries holds properties described in the General Disclosure Package and the Prospectus, are in full force and effect, and neither the Company nor any subsidiary has any notice of any material claim of any sort that has been asserted by anyone adverse to the rights of the Company or any subsidiary under any of the leases or subleases mentioned above, or affecting or questioning the rights of the Company or such subsidiary to the continued possession of the leased or subleased premises under any such lease or sublease.

(z) There is (A) no significant unfair labor practice complaint pending against the Company, or any of its subsidiaries, nor to the Knowledge of the Company, threatened against it or any of its subsidiaries, before the National Labor Relations Board, any state or local labor relation board or any foreign labor relations board, and no significant grievance or significant arbitration proceeding arising out of or under any collective bargaining agreement is so pending against the Company or any of its subsidiaries, or, to the Knowledge of the Company, threatened against it and (B) no labor disturbance by the employees of the Company or any of its subsidiaries exists or, to the Company's Knowledge, is imminent, and the Company is not aware of any existing or imminent labor disturbance by the employees of any of its or its subsidiaries principal suppliers, manufacturers, customers or contractors, that could reasonably be expected, singularly or in the aggregate, to have a Material Adverse Effect. The Company is not aware that any key employee or significant group of employees of the Company or any subsidiary plans to terminate employment with the Company or any such subsidiary.

(aa) No “prohibited transaction” (as defined in Section 406 of the Employee Retirement Income Security Act of 1974, as amended, including the regulations and published interpretations thereunder (“ERISA”), or Section 4975 of the Internal Revenue Code of 1986, as amended from time to time (the “Code”)) or “accumulated funding deficiency” (as defined in Section 302 of ERISA) or any of the events set forth in Section 4043(b) of ERISA (other than events with respect to which the thirty (30)-day notice requirement under Section 4043 of ERISA has been waived) has occurred or could reasonably be expected to occur with respect to any employee benefit plan of the Company or any of its subsidiaries which could, singularly or in the aggregate, have a Material Adverse Effect. Each employee benefit plan of the Company or any of its subsidiaries is in compliance in all material respects with applicable law, including ERISA and the Code. The Company and its subsidiaries have not incurred and could not reasonably be expected to incur liability under Title IV of ERISA with respect to the termination of, or withdrawal from, any pension plan (as defined in ERISA). Each pension plan for which the Company or any of its subsidiaries would have any liability that is intended to be qualified under Section 401(a) of the Code is so qualified, and nothing has occurred, whether by action or by failure to act, which could, singularly or in the aggregate, cause the loss of such qualification.

(bb) The Company and its subsidiaries are in compliance with all foreign, federal, state and local rules, laws and regulations relating to the use, treatment, storage and disposal of hazardous or toxic substances or waste and protection of health and safety or the environment which are applicable to their businesses (“Environmental Laws”), except where such non-compliance with Environmental Laws would not, individually or in the aggregate, result in a Material Adverse Effect. There has been no storage, generation, transportation, handling, treatment, disposal, discharge, emission, or other release of any kind of toxic or other wastes or other hazardous substances by, due to, or caused by the Company or any of its subsidiaries (or, to the Company’s Knowledge, any other entity for whose acts or omissions the Company or any of its subsidiaries is or may otherwise be liable) upon any of the property now or previously owned or leased by the Company or any of its subsidiaries, or upon any other property, in violation of any law, statute, ordinance, rule, regulation, order, judgment, decree or permit or which would, under any law, statute, ordinance, rule (including rule of common law), regulation, order, judgment, decree or permit, give rise to any liability, except where such non-compliance with such laws, failure to receive required permits, licenses or other approvals or failure to comply with the terms of such permits, licenses or approvals would not, individually or in the aggregate, result in a Material Adverse Effect; and there has been no disposal, discharge, emission or other release of any kind onto such property or into the environment surrounding such property of any toxic or other wastes or other hazardous substances with respect to which the Company or any of its subsidiaries has knowledge. In the ordinary course of business, the Company and its subsidiaries conduct periodic reviews of the effect of Environmental Laws on their business and assets, in the course of which they identify and evaluate associated costs and liabilities (including, without limitation, any capital or operating expenditures required for clean-up, closure of properties or compliance with Environmental Laws or Governmental Permits issued thereunder, any related constraints on operating activities and any potential liabilities to third parties). On the basis of such reviews, the Company has reasonably concluded that such associated costs and liabilities would not have, singularly or in the aggregate, a Material Adverse Effect.

(cc) The Company and its subsidiaries (other than the PRC Entities) each (i) have timely filed all necessary federal, state, local and foreign tax returns, and all such returns were true, complete and correct, (ii) have paid all federal, state, local and foreign taxes, assessments, governmental or other charges due and payable for which it is liable, including, without limitation, all sales and use taxes and all taxes which the Company or any of its subsidiaries is obligated to withhold from amounts owing to employees, creditors and third parties, and (iii) do not have any tax deficiency or claims outstanding or assessed or, to its Knowledge, proposed against any of them, except those, in each of the cases described in clauses (i), (ii) and (iii) of this paragraph (cc), that would not, singularly or in the aggregate, have a Material Adverse Effect. The Company and its subsidiaries have not engaged in any transaction which is a corporate tax shelter or which could be characterized as such by the Internal Revenue Service or any other taxing authority. The accruals and reserves on the books and records of the Company and its subsidiaries in respect of tax liabilities for any taxable period not yet finally determined are adequate to meet any assessments and related liabilities for any such period, and since December 31, 2009 the Company and its subsidiaries have not incurred any liability for taxes other than in the ordinary course.

(dd) The Company and each of its subsidiaries carry, or are covered by, insurance in such amounts and covering such risks as is customary for companies engaged in similar businesses in similar industries. Neither the Company nor any of its subsidiaries has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a Material Adverse Effect. All policies of insurance owned by the Company or any of its subsidiaries are, to the Company's Knowledge, in full force and effect and the Company and its subsidiaries are in compliance with the terms of such policies. Neither the Company nor any of its subsidiaries has received written notice from any insurer, agent of such insurer or the broker of the Company or any of its subsidiaries that any material capital improvements or any other material expenditures (other than premium payments) are required or necessary to be made in order to continue such insurance. None of the Company or any of its subsidiaries insures risk of loss through any captive insurance, risk retention group, reciprocal group or by means of any fund or pool of assets specifically set aside for contingent liabilities other than as described in the General Disclosure Package.

(ee) The Company and, except as set forth in the General Disclosure Package and the Prospectus, each of its subsidiaries maintains a system of internal control over financial reporting (as such term is defined in Rule 13a-15 of the General Rules and Regulations under the Exchange Act (the “Exchange Act Rules”)) that complies with the requirements of the Exchange Act and has been designed by the Company’s principal executive officer and principal financial officer, or under their supervision, to provide reasonable assurances that (i) transactions are executed in accordance with management’s general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management’s general or specific authorization; and (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as described in the General Disclosure Package, since the end of the Company’s most recent audited fiscal year, there has been (A) no material weakness in the Company’s internal control over financial reporting (whether or not remediated) and (B) no change in the Company’s internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company’s internal control over financial reporting. The Company’s internal control over financial reporting is, or upon consummation of the offering of the Stock and Warrants will be, overseen by the Audit Committee of the Board of Directors of the Company (the “Audit Committee”) in accordance with the Exchange Act Rules.

(ff) [Intentionally Omitted.]

(gg) The Company and each of its subsidiaries have made and keep books, records and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company and its subsidiaries in all material respects.

(hh) The Company maintains disclosure controls and procedures (as such is defined in Rule 13a-15 of the Exchange Act Rules) that comply with the requirements of the Exchange Act; such disclosure controls and procedures have been designed to ensure that information required to be disclosed by the Company is accumulated and communicated to the Company’s management, including the Company’s principal executive officer and principal financial officer by others within those entities, such disclosure controls and procedures are effective in all material respects to perform the functions for which they were established.

(ii) The minute books of the Company have been made available to the Underwriters and counsel for the Underwriters, and such books (i) contain or will contain as of the Closing Date a complete summary of all meetings and actions of the board of directors (including each board committee) and shareholders of the Company (or analogous governing bodies and interest holders, as applicable), since January 1, 2007 through the date of the latest meeting and action, and (ii) accurately in all material respects reflect all transactions referred to in such minutes.

(jj) There is no franchise agreement, lease, contract, or other agreement or document required by the Securities Act or by the Rules and Regulations to be described in the General Disclosure Package and in the Prospectus or a document incorporated by reference therein or to be filed as an exhibit to the Registration Statements or a document incorporated by reference therein which is not so described or filed therein as required; and all descriptions of any such franchise agreements, leases, contracts, or other agreements or documents contained in the General Disclosure Package and in the Prospectus or in a document incorporated by reference therein are accurate and complete descriptions of such documents in all material respects. Other than as described in the General Disclosure Package, no such franchise agreement, lease, contract or other agreement has been suspended or terminated for convenience or default by the Company or any of the other parties thereto, and neither the Company nor any of its subsidiaries has received notice of and the Company does not have Knowledge of any such pending or threatened suspension or termination except for such suspensions or terminations or pending or threatened suspensions or terminations that would not reasonably be expected to, singularly or in the aggregate, have a Material Adverse Effect.

(kk) No relationship, direct or indirect, exists between or among the Company on the one hand, and the directors, officers, stockholders (or analogous interest holders), customers or suppliers of the Company or any of its affiliates on the other hand, which is required to be described in the General Disclosure Package and the Prospectus or a document incorporated by reference therein and which is not so described.

(ll) Except as set forth in the General Disclosure Package and the Prospectus, no person or entity has the right to require registration of shares of Common Stock or other securities of the Company or any of its subsidiaries because of the filing or effectiveness of the Registration Statements or otherwise, except for persons and entities who have expressly waived such right in writing or who have been given timely and proper written notice and have failed to exercise such right within the time or times required under the terms and conditions of such right. There are no persons with registration rights or similar rights to have any securities registered by the Company or any of its subsidiaries under the Securities Act, except where the failure to so register would not be expected to, singularly or in the aggregate, have a Material Adverse Effect.

(mm) Neither the Company nor any of its subsidiaries own any "margin securities" as that term is defined in Regulation U of the Board of Governors of the Federal Reserve System (the "Federal Reserve Board"), and none of the proceeds of the sale of the Stock and Warrants will be used, directly or indirectly, for the purpose of purchasing or carrying any margin security, for the purpose of reducing or retiring any indebtedness which was originally incurred to purchase or carry any margin security or for any other purpose which might cause any of the Stock or Warrants to be considered a "purpose credit" within the meanings of Regulation T, U or X of the Federal Reserve Board.

(nn) Neither the Company nor any of its subsidiaries is a party to any contract, agreement or understanding with any person that would give rise to a valid claim against the Company or the Underwriters for a brokerage commission, finder's fee or like payment in connection with the offering and sale of the Stock and Warrants or any transaction contemplated by this Agreement, the Registration Statements, the General Disclosure Package or the Prospectus.

(oo) All grants of options were validly issued and properly approved by the board of directors of the Company (or a duly authorized committee thereof) in material compliance with all applicable laws and regulations and recorded in the Company's financial statements in accordance with GAAP.

(pp) Except as described in the General Disclosure Package and the Prospectus, no subsidiary of the Company is currently prohibited, directly or indirectly, under any agreement or other instrument to which it is a party or is subject, from paying any dividends to the Company, from making any other distribution on such subsidiary's capital stock, from repaying to the Company any loans or advances to such subsidiary from the Company or from transferring any of such subsidiary's properties or assets to the Company or any other subsidiary of the Company.

(qq) Since the date as of which information is given in the General Disclosure Package and the Prospectus through the date hereof, and except as set forth in the Pricing Prospectus, neither the Company nor any of its subsidiaries has (i) issued or granted any securities other than options to purchase common stock pursuant to the Company's stock option plan or securities issued upon exercise of stock options in the ordinary course of business, (ii) incurred any material liability or obligation, direct or contingent, other than liabilities and obligations which were incurred in the ordinary course of business, (iii) entered into any material transaction other than in the ordinary course of business or (iv) declared or paid any dividend on its capital stock.

(rr) If applicable, all of the information provided to the Underwriters or to counsel for the Underwriters by the Company, its officers and directors and the holders of any securities (debt or equity) or options to acquire any securities of the Company in connection with letters, filings or other supplemental information provided to FINRA pursuant to FINRA Rule 5110 is true, correct and complete in all material respects.

(ss) The Company is not a Passive Foreign Investment Company ("PFIC") within the meaning of Section 1296 of the United States Internal Revenue Code of 1966, and the Company is not likely to become a PFIC.

(tt) No forward-looking statement (within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act) contained in either the General Disclosure Package or the Prospectus has been made or reaffirmed without a reasonable basis or has been disclosed other than in good faith.

(uu) The Company is subject to and in compliance in all material respects with the reporting requirements of Section 13 or Section 15(d) of the Exchange Act. The Common Stock is registered pursuant to Section 12(b) or 12(g) of the Exchange Act and is listed on the NYSE Amex (the "Exchange"), and except as described in the General Disclosure Package, the Company has taken no action designed to, or reasonably likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act or delisting the Common Stock from the Exchange, nor has the Company received any notification that the Commission or the Financial Industry Regulatory Authority ("FINRA") is contemplating terminating such registration or listing. The Company has filed a notification of the listing of the Stock and Warrant Shares on the NYSE Amex.

(vv) Except as disclosed in the Registration Statements, the General Disclosure Package and the Prospectus, the Company is in compliance in all material respects with all applicable provisions of the Sarbanes-Oxley Act of 2002 and all rules and regulations promulgated thereunder or implementing the provisions thereof (the "Sarbanes-Oxley Act") that are in effect.

(ww) The Company is in compliance in all material respects with all applicable corporate governance requirements set forth in the rules of the Exchange that are in effect.

(xx) Neither the Company nor any of its subsidiaries nor, to the Company's Knowledge, any employee or agent of the Company or any subsidiary, has (i) used any corporate funds for unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to foreign or domestic political parties or campaigns from corporate funds, (iii) violated any provision of the Foreign Corrupt Practices Act of 1977, as amended or (iv) made any other unlawful payment.

(yy) There are no transactions, arrangements or other relationships between and/or among the Company, any of its affiliates (as such term is defined in Rule 405 of the Rules and Regulations) and any unconsolidated entity, including, but not limited to, any structured finance, special purpose or limited purpose entity that could reasonably be expected to materially affect the Company's liquidity or the availability of or requirements for its capital resources required to be described in the General Disclosure Package and the Prospectus or a document incorporated by reference therein which have not been described as required.

(zz) There are no outstanding loans, advances (except normal advances for business expenses in the ordinary course of business) or guarantees of indebtedness by the Company or any of its subsidiaries to or for the benefit of any of the officers or directors of the Company, any of its subsidiaries or any of their respective family members, except as disclosed in the Registration Statements, the General Disclosure Package and the Prospectus. All transactions by the Company with office holders or control persons of the Company have been duly approved by the board of directors of the Company, or duly appointed committees or officers thereof, if and to the extent required under U.S. law.

(aaa) The statistical and market related data included in the Registration Statement, the General Disclosure Package and the Prospectus are based on or derived from sources that the Company believes to be reliable and accurate in all material respects, and such data agree in all material respects with the sources from which they are derived.

(bbb) The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the “Money Laundering Laws”), and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending, or to the Company’s Knowledge, threatened.

(ccc) Neither the Company nor any of its subsidiaries nor, to the Company’s Knowledge, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department (“OFAC”); and the Company will not directly or indirectly use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

(ddd) Neither the Company nor, to the Company’s Knowledge, any of its affiliates (within the meaning of NASD Conduct Rule 2720(b)(1)(a)) directly or indirectly controls, is controlled by, or is under common control with, or is an associated person (within the meaning of Article I, Section 1(ee) of the By-laws of FINRA) of, any member firm of FINRA.

(eee) The Company conducts a substantial portion of its operations and generates substantially all of its revenue through (i) NeoStem (China), Inc., a wholly foreign-owned enterprise formed under the laws of the People’s Republic of China (the “PRC”) (“NeoStem China”), (ii) Qingdao Niao Bio-Technology Ltd., a company formed under the laws of the PRC (“Qingdao”), (iii) Beijing Ruijieao Bio-Technology Ltd., a company formed under the laws of the PRC (“Beijing”) and together with Qingdao, the “PRC VIEs”), and (iv) Suzhou Erye Pharmaceuticals Ltd., a joint venture formed under the laws of the PRC (the “JV”). The NeoStem China, the PRC VIEs and the JV are collectively referred to hereinafter as the “PRC Entities.”

(fff) Each PRC Entity has applied for and obtained all requisite business licenses, clearance and permits required under PRC law as necessary for the conduct of its businesses in all material respects, and each PRC Entity has complied in all material respects with all PRC Laws in connection with foreign exchange, including without limitation, carrying out all relevant filings, registrations and applications for relevant permits with the PRC State Administration of Foreign Exchange and any other relevant authorities, and all such permits are validly subsisting. Except as set forth on Schedule 2(fff), the registered capital of each PRC Entity has been fully paid up in accordance with the schedule of payment stipulated in its respective articles of association, approval document, certificate of approval and legal person business license (hereinafter referred to as the “Establishment Documents”) and in compliance in all material respects with PRC laws and regulations, and there is no outstanding capital contribution commitment for any PRC Entity. The Establishment Documents of the PRC Entities have been duly approved in accordance with the laws of the PRC and are valid and enforceable. The business scope specified in the Establishment Documents of each PRC Entity complies in all material respects with the requirements of all relevant PRC laws and regulations. The outstanding equity interests of each PRC Entity is owned by the respective entities or individuals identified as the registered holders thereof in the Registration Statement, the General Disclosure Package and the Prospectus.

(ggg) Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, no consents, approvals, authorizations, orders, registrations, clearances, certificates, franchises, licenses, permits or qualifications of or with any PRC governmental agency are required for the Company's or its affiliates' or subsidiaries' contractual arrangements and agreements with the PRC VIEs and their registered equity holders (the "VIE Structure") or the execution, delivery and performance of such contractual arrangements and agreements (the "VIE Structuring Documents") except where the failure to obtain such consents, approvals, authorizations, orders, registrations, clearances, certificates, franchises, licenses, permits or qualifications would not, singularly or in the aggregate, have a Material Adverse Effect. None of the VIE Structuring Documents has been revoked and no such revocation is pending or, to the Company's Knowledge, threatened. Except as set forth in the General Disclosure Package and the Prospectus, each of the VIE Structuring Documents has been entered into prior to the date thereof in compliance in all material respects with all applicable laws and regulations and constitutes a valid and legally binding agreement, enforceable in accordance with its terms.

(hhh) Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, the VIE Structure and the execution, delivery and performance of the VIE Structuring Documents and the consummation of the transactions contemplated thereby did not and do not (i) conflict with, or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which any PRC Entity is a party or by which any PRC Entity is bound or by which any of the properties or assets of any PRC Entity is subject, (ii) violate or conflict with the Establishment Documents of any PRC Entity, or (iii) violate or conflict with any applicable laws, regulations, rules, orders, decrees, guidelines, notices or other legislation of the PRC, except, in the case of clauses (i) and (iii) of this paragraph (hhh), for any violations or defaults which, singularly or in the aggregate, would not have a Material Adverse Effect.

(iii) Except as set forth in the General Disclosure Package and the Prospectus, the VIE Structure complies, and immediately following the consummation of the offering and sale of the Stock and Warrants will comply, in all material respects with all applicable laws, regulations, rules, orders, decrees, guidelines, notices or other legislation of the PRC; the VIE Structure has not been challenged by any PRC governmental agency and there are no legal, arbitration, governmental or other proceedings (including, without limitation, governmental investigations or inquiries) pending before or, to the Company's knowledge, threatened or contemplated by any PRC governmental agency in respect of the VIE Structure; and the Company reasonably believes that after the consummation of the offering and sale of the Stock and Warrants, the VIE Structure will not be challenged by any PRC governmental agency.

(jjj) The Company possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the PRC VIEs.

(kkk) Except as set forth in the Registration Statement, the General Disclosure Package and the Prospectus, no PRC Entity is currently prohibited, directly or indirectly, from paying any dividends to the Company (or the Company's subsidiary that holds the outstanding equity interest of such PRC Entity), and no PRC VIE is currently prohibited, directly or indirectly, from paying any of its obligations set forth in the VIE Structuring Documents. No PRC Entity is prohibited, directly or indirectly, from making any other distribution on such PRC Entity's equity capital, from repaying to the Company any loans or advances to such PRC Entity from the Company or any of the Company's subsidiaries.

(lll) None of the PRC Entities nor any of their properties, assets or revenues are entitled to any right of immunity on the grounds of sovereignty from any legal action, suit or proceeding, from set-off or counterclaim, from the jurisdiction of any court, from services of process, from attachment prior to or in aid of execution of judgment, or from any other legal process or proceeding for the giving of any relief or for the enforcement of any judgment.

(mmm) In connection with the offering contemplated by this Agreement, it is not necessary that this Agreement, the Registration Statement, the General Disclosure Package, the Prospectus or any other document be filed or recorded with any governmental agency, court or other authority in the PRC.

(nnn) No transaction, stamp, capital or other issuance, registration, transaction, transfer or withholding taxes or duties are payable in the PRC by or on behalf of the Underwriters to any PRC taxing authority in connection with (i) the issuance, sale and delivery of the Stock and Warrants by the Company and the delivery of the Stock and Warrants to or for the account of the Underwriters, (ii) the purchase from the Company and the initial sale and delivery by the Underwriters of the Stock and Warrants to purchasers thereof, or (iii) the execution and delivery of this Agreement.

(ooo) Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, the Company has taken all steps reasonably necessary to comply with any applicable rules and regulations of the PRC State Administration of Foreign Exchange of the PRC (the "SAFE Rules and Regulations").

(ppp) The Company is aware of, and has been advised as to, the content of the Rules on Mergers and Acquisitions of Domestic Enterprises by Foreign Investors jointly promulgated on August 8, 2006 by the PRC Ministry of Commerce, the PRC State Assets Supervision and Administration Commission, the PRC State Administration of Taxation, the PRC State Administration of Industry and Commerce, the China Securities Regulatory Commission ("CSRC") and the PRC State Administration of Foreign Exchange of the PRC (the "M&A Rules"), in particular the relevant provisions thereof that purport to require offshore special purpose vehicles controlled directly or indirectly by PRC-incorporated companies or PRC residents and established for the purpose of obtaining a stock exchange listing outside of the PRC to obtain the approval of the CSRC prior to the listing and trading of their securities on any stock exchange located outside of the PRC. The Company has received legal advice specifically with respect to the M&A Rules from its PRC counsel and the Company understands such legal advice. In addition, the Company has communicated such legal advice in full to each of its directors that signed the Registration Statement and each such director has confirmed that he or she understands such legal advice.

(qqq) The issuance and sale of the Stock and Warrants, the listing and trading of the Stock and Warrant Shares on NYSE Amex and the consummation of the transactions contemplated by this Agreement, the Registration Statement, the General Disclosure Package and the Prospectus are not and will not be, as of the date hereof and on the Closing Date, affected by the M&A Rules or any official clarifications, guidance, interpretations or implementation rules in connection with or related to the M&A Rules, including the guidance and notices issued by the CSRC on September 8 and September 21, 2006 (together with the M&A Rules, the “M&A Rules and Related Clarifications”).

(rrr) The Company has taken all necessary steps to ensure compliance by each of its stockholders, option holders, directors, officers and employees that is, or is directly or indirectly owned or controlled by, a PRC resident or citizen with any applicable rules and regulations of the relevant PRC government agencies (including but not limited to the PRC Ministry of Commerce, the PRC National Development and Reform Commission and the PRC State Administration of Foreign Exchange) relating to overseas investment by PRC residents and citizens (the “PRC Overseas Investment and Listing Regulations”), including, requesting each stockholder, option holder, director, officer, employee and participant that is, or is directly or indirectly owned or controlled by, a PRC resident or citizen to complete any registration and other procedures required under applicable PRC Overseas Investment and Listing Regulations.

(sss) As of the date hereof, the M&A Rules and Related Clarifications do not require the Company to obtain the approval of the CSRC prior to the issuance and sale of the Stock and Warrants, the listing and trading of the Stock and Warrant Shares on the NYSE Amex, or the consummation of the transactions contemplated by this Agreement, the Registration Statement, the General Disclosure Package or the Prospectus.

(ttt) Each of the PRC Entities is in compliance with all requirements under all applicable PRC laws and regulations to qualify in all material respects for their exemptions from enterprise income tax or other income tax benefits (the “Tax Benefits”) as described in the Registration Statement, the General Disclosure Package and the Prospectus, and the actual operations and business activities of each such PRC Entity are sufficient to meet the qualifications for the Tax Benefits. No submissions made to any PRC government authority in connection with obtaining the Tax Benefits contained any misstatement or omission that would have affected the granting of the Tax Benefits. No PRC Entity has received notice of any deficiency in its respective applications for the Tax Benefits, and the Company is not aware of any reason why any such PRC Entity might not qualify for, or be in compliance with the requirements for, the Tax Benefits.

(uuu) Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, all local and national PRC governmental tax holidays, exemptions, waivers, financial subsidies, and other local and national PRC tax relief, concessions and preferential treatment enjoyed by any PRC Entity as described in the Registration Statement, the General Disclosure Package and the Prospectus are valid, binding and enforceable and do not violate any laws, regulations, rules, orders, decrees, guidelines, judicial interpretations, notices or other legislation of the PRC.

(vvv) The Underwriters will not be deemed to be resident, domiciled, carrying on business or subject to taxation in the PRC solely by reason of their execution, delivery, performance or enforcement of, or the consummation of any transaction contemplated by, this Agreement, the Registration Statement, the General Disclosure Package or the Final Prospectus.

Any certificate signed by or on behalf of the Company and delivered to the Representative or to counsel for the Underwriters shall be deemed to be a representation and warranty by the Company to each Underwriter as to the matters covered thereby.

3. *PURCHASE, SALE AND DELIVERY OF OFFERED SECURITIES.* On the basis of the representations, warranties and agreements herein contained, but subject to the terms and conditions herein set forth, the Company agrees to sell to the Underwriters, and the Underwriters agree, severally and not jointly, to purchase from the Company the respective numbers of shares of Stock and Warrants set forth opposite the names of the Underwriters in Schedule I hereto. The purchase price per unit to be paid by the Underwriters to the Company for the Stock and Warrants will be \$1.34125 per unit (the "Purchase Price").

The Company will deliver to the Representative for the respective accounts of the several Underwriters (i) the Stock through the facilities of The Depository Trust Company and (ii) the Warrants in physical, certificated form, issued in such names and in such denominations as the Representative may direct by notice in writing to the Company given at or prior to 12:00 Noon, New York time, on the second (2nd) full business day preceding the Closing Date against payment of the aggregate Purchase Price therefor by wire transfer in federal (same day) funds to an account at a bank acceptable to Cowen payable to the order of the Company at the offices of Goodwin Procter LLP, The New York Times Building, 620 Eighth Avenue, New York, New York. Time shall be of the essence, and delivery at the time and place specified pursuant to this Agreement is a further condition of the obligations of each Underwriter hereunder. The time and date of the delivery and closing shall be at 10:00 a.m., New York time, on November 19, 2010, in accordance with Rule 15c6-1 of the Exchange Act. The time and date of such payment and delivery are herein referred to as the "Closing Date". The Closing Date and the location of delivery of, and the form of payment for, the Stock and Warrants may be varied by agreement between the Company and Cowen.

The several Underwriters propose to offer the Stock and Warrants for sale upon the terms and conditions set forth in the Prospectus.

4. *FURTHER AGREEMENTS OF THE COMPANY.* The Company agrees with the several Underwriters:

(a) To prepare the Rule 462(b) Registration Statement, if necessary, in a form approved by the Representative and file such Rule 462(b) Registration Statement with the Commission by 10:00 p.m., New York time, on the date hereof, and the Company shall at the time of filing either pay to the Commission the filing fee for the Rule 462(b) Registration Statement or give irrevocable instructions for the payment of such fee pursuant to Rule 111(b) under the Rules and Regulations; to prepare the Prospectus in a form approved by the Representative containing information previously omitted at the time of effectiveness of the Registration Statement in reliance on Rules 430A, 430B or 430C of the Rules and Regulations and to file such Prospectus pursuant to Rule 424(b) of the Rules and Regulations not later than the second business (2nd) day following the execution and delivery of this Agreement or, if applicable, such earlier time as may be required by Rule 430A of the Rules and Regulations; prior to the expiration of the Prospectus Delivery Period (as defined below), to notify the Representative immediately of the Company's intention to file or prepare any supplement or amendment to any Registration Statement or to the Prospectus and to make no amendment or supplement to the Registration Statements, the General Disclosure Package or to the Prospectus to which the Representative shall reasonably object by notice to the Company after a reasonable period to review; prior to the expiration of the Prospectus Delivery Period, to advise the Representative, promptly after it receives notice thereof, of the time when any amendment to any Registration Statement has been filed or becomes effective or any supplement to the General Disclosure Package or the Prospectus or any amended Prospectus has been filed and to furnish the Underwriters with copies thereof; to file promptly all material required to be filed by the Company with the Commission pursuant to Rules 433(d) or 163(b)(2) of the Rules and Regulations, as the case may be; to file promptly all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of the Prospectus and for so long as the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) of the Rules and Regulations) is required in connection with the offering or sale of the Stock and Warrants (the "Prospectus Delivery Period"); prior to the expiration of the Prospectus Delivery Period, to advise the Representative, promptly after it receives notice thereof, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus, any Issuer Free Writing Prospectus or the Prospectus, of the suspension of the qualification of the Stock and Warrants for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose, or of any request by the Commission for the amending or supplementing of the Registration Statements, the General Disclosure Package or the Prospectus or for additional information; and, in the event of the issuance of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus, any Issuer Free Writing Prospectus or the Prospectus or suspending any such qualification, and promptly to use its reasonable best efforts to obtain the withdrawal of such order.

(b) The Company represents and agrees that, unless it obtains the prior consent of the Representative, and each Underwriter represents and agrees that, unless it obtains the prior consent of the Company and the Representative, it has not made and will not, other than the Final Term Sheet (defined below), if any, prepared and filed pursuant to Section 4(c) hereof, make any offer relating to the Stock and Warrants that would constitute a “free writing prospectus” as defined in Rule 405 of the Rules and Regulations unless the prior written consent of the Representative has been received (each, a “Permitted Free Writing Prospectus”); *provided* that the prior written consent of the Representative hereto shall be deemed to have been given in respect of the Issuer Free Writing Prospectuses included in Schedule II hereto. The Company represents that it has treated and agrees that it will treat each Permitted Free Writing Prospectus as an Issuer Free Writing Prospectus, comply with the requirements of Rules 164 and 433 of the Rules and Regulations applicable to any Issuer Free Writing Prospectus, including the requirements relating to timely filing with the Commission, legending and record keeping and will not take any action that would result in an Underwriter or the Company being required to file with the Commission pursuant to Rule 433(d) of the Rules and Regulations a free writing prospectus prepared by or on behalf of such Underwriter that such Underwriter otherwise would not have been required to file thereunder. The Company consents to the use by any Underwriter of a free writing prospectus that (a) is not an “issuer free writing prospectus” as defined in Rule 433 of the Rules and Regulations, and (b) contains only (i) information describing the preliminary terms of the Stock and Warrants or their offering and (ii) information that described the final terms of the Stock and Warrants or their offering and that is included in the Final Term Sheet, if any, contemplated in Section 4(c) below.

(c) At the request of the Representative, the Company will prepare a final term sheet (the “Final Term Sheet”) reflecting the final terms of the Stock and Warrants, in form and substance satisfactory to the Representative, and shall file such Final Term Sheet as an Issuer Free Writing Prospectus pursuant to Rule 433 of the Rules and Regulations prior to the close of business two (2) business days after the date hereof; *provided* that the Company shall provide the Representative with copies on any such Final Term Sheet within a reasonable amount of time prior to such proposed filing and will not use or file any such document to which the Representative or counsel to the Underwriters shall reasonably object.

(d) If at any time prior to the expiration of nine (9) months after the later of (i) the latest effective date of the Registration Statement or (ii) the date of the Prospectus, when a prospectus relating to the Stock and Warrants is required to be delivered (or in lieu thereof, the notice referred to in Rule 173(a) of the Rules and Regulations) any event occurs or condition exists as a result of which the Prospectus as then amended or supplemented would include any untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made when the Prospectus is delivered (or in lieu thereof, the notice referred to in Rule 173(a) of the Rules and Regulations), not misleading, or if it is necessary at any time to amend or supplement any Registration Statement or the Prospectus or to file under the Exchange Act any document incorporated by reference in the Prospectus to comply with the Securities Act or the Exchange Act, that the Company will promptly notify the Representative thereof and upon its request will prepare an appropriate amendment or supplement or upon its request make an appropriate filing pursuant to Section 13 or 14 of the Exchange Act in form and substance satisfactory to the Representative which will correct such statement or omission or effect such compliance and will use its reasonable best efforts to have any amendment to any Registration Statement declared effective as soon as possible. The Company will furnish without charge to each Underwriter and to any dealer in securities as many copies as the Representative may from time to time reasonably request of such amendment or supplement. In case any Underwriter is required to deliver a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) of the Rules and Regulations) relating to the Stock and Warrants nine (9) months or more after the later of (i) the latest effective date of the Registration Statement or (ii) the date of the Prospectus, the Company upon the request of the Representative will prepare promptly an amended or supplemented Prospectus as may be necessary to permit compliance with the requirements of Section 10(a)(3) of the Securities Act and deliver to such Underwriter as many copies as such Underwriter may reasonably request of such amended or supplemented Prospectus complying with Section 10(a)(3) of the Securities Act.

(e) If the General Disclosure Package is being used to solicit offers to buy the Stock and Warrants at a time when the Prospectus is not yet available to prospective purchasers and any event shall occur as a result of which, in the judgment of the Company or in the reasonable opinion of the Underwriters, it becomes necessary to amend or supplement the General Disclosure Package in order to make the statements therein, in the light of the circumstances then prevailing, not misleading, or to make the statements therein not conflict with the information contained or incorporated by reference in the Registration Statement then on file and not superseded or modified, or if it is necessary at any time to amend or supplement the General Disclosure Package to comply with any law, the Company promptly will either (i) prepare, file with the Commission (if required) and furnish to the Underwriters and any dealers an appropriate amendment or supplement to the General Disclosure Package or (ii) prepare and file with the Commission an appropriate filing under the Exchange Act which shall be incorporated by reference in the General Disclosure Package so that the General Disclosure Package as so amended or supplemented will not, in the light of the circumstances then prevailing, be misleading or conflict with the Registration Statement then on file, or so that the General Disclosure Package will comply with law.

(f) If at any time following issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or will conflict with the information contained in the Registration Statement, Pricing Prospectus or Prospectus, including any document incorporated by reference therein and any prospectus supplement deemed to be a part thereof and not superseded or modified or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances prevailing at the subsequent time, not misleading, the Company has promptly notified or will promptly notify the Representative so that any use of the Issuer Free Writing Prospectus may cease until it is amended or supplemented and has promptly amended or will promptly amend or supplement, at its own expense, such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission. The foregoing sentence does not apply to statements in or omissions from any Issuer Free Writing Prospectus in reliance upon, and in conformity with, written information furnished to the Company through the Representative by or on behalf of any Underwriter specifically for inclusion therein, which information the parties hereto agree is limited to the Underwriter's Information (as defined in [Section 17](#)).

(g) Upon request of the Representative, to furnish promptly to the Representative and to counsel for the Underwriters a signed copy of each of the Registration Statements as originally filed with the Commission, and of each amendment thereto filed with the Commission, including all consents and exhibits filed therewith.

(h) To deliver promptly to the Representative in New York City such number of the following documents as the Representative shall reasonably request: (i) conformed copies of the Registration Statements as originally filed with the Commission (in each case excluding exhibits), (ii) each Preliminary Prospectus, (iii) any Issuer Free Writing Prospectus, (iv) the Prospectus (the delivery of the documents referred to in clauses (i), (ii), (iii) and (iv) of this paragraph (h) to be made not later than 10:00 a.m., New York time, on the business day following the execution and delivery of this Agreement), (v) conformed copies of any amendment to the Registration Statement (excluding exhibits), (vi) any amendment or supplement to the General Disclosure Package or the Prospectus after the date hereof (the delivery of the documents referred to in clauses (v) and (vi) of this paragraph (h) to be made not later than 10:00 a.m., New York City time, on the business day following the date of such amendment or supplement) and (vii) any document incorporated by reference in the General Disclosure Package or the Prospectus (excluding exhibits thereto) (the delivery of the documents referred to in clause (vii) of this paragraph (h) to be made not later than 10:00 a.m., New York City time, on the business day following the date of such document); provided, however, that filing with the Commission on EDGAR (as defined below) of any document specified in clause (vii) of this paragraph (h) shall constitute delivery to the Representative.

(i) To make generally available to its shareholders as soon as practicable, but in any event not later than sixteen (16) months after the effective date of each Registration Statement (as defined in Rule 158(c) of the Rules and Regulations), an earnings statement of the Company (which need not be audited) complying with Section 11(a) of the Securities Act and the Rules and Regulations (including, at the option of the Company, Rule 158).

(j) To take promptly from time to time such actions as the Representative may reasonably request to qualify the Stock and Warrants for offering and sale under the securities or Blue Sky laws of such jurisdictions (domestic or foreign) as the Representative may designate and to continue such qualifications in effect, and to comply with such laws, for so long as required to permit the offer and sale of Stock and Warrants in such jurisdictions; *provided* that the Company shall not be obligated to qualify as foreign corporations in any jurisdiction in which they are not so qualified or to file a general consent to service of process in any jurisdiction.

(k) Upon request, during the period of five (5) years from the date hereof, to deliver to each of the Underwriters, (i) as soon as they are available, copies of all reports or other communications furnished to shareholders generally, and (ii) as soon as they are available, copies of any reports and financial statements furnished or filed with the Commission or any national securities exchange on which the Common Stock is listed. However, so long as the Company is subject to the reporting requirements of either Section 13 or Section 15(d) of the Exchange Act and is timely filing reports with the Commission on its Electronic Data Gathering, Analysis and Retrieval system ("EDGAR"), it is not required to furnish such reports or statements to the Underwriters.

(l) That the Company will not, for a period of ninety (90) days from the date of this Agreement, (the "Lock-Up Period") without the prior written consent of Cowen, directly or indirectly offer, sell, assign, transfer, pledge, contract to sell, or otherwise dispose of, any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock, other than (1) the Company's sale of the Stock and Warrants hereunder, (2) the issuance of Common Stock, options to acquire Common Stock or other equity awards pursuant to the Company's employee benefit plans, qualified stock option plans, employee stock purchase plans or other employee compensation plans as such plans are in existence on the date hereof and described in the Prospectus and as such plans may be amended in a separate proposal at the Company's special meeting of shareholders to be held to, inter alia, approve the issuance of shares to the equity holders of Progenitor Cell Therapy ("PCT"), (3) the issuance of Common Stock pursuant to the valid exercises, vesting or settlements of options, warrants or rights outstanding on the date hereof, (4) the issuance of Common Stock or securities convertible or exercisable into shares of Common Stock in connection with the Company's transaction with PCT, (5) the issuance of units consisting of convertible preferred stock, Common Stock and warrants to purchase Common Stock pursuant to that certain Placement Agency Agreement dated of even date herewith by and among the Company and the placement agents named therein (the "Concurrent Preferred Offering"), (6) the issuance of shares of Common Stock or securities convertible or exercisable into shares of Common Stock to consultants (including in connection with investor relations activities) or (7) the issuance of shares of Common Stock or securities convertible or exercisable into shares of Common Stock in connection with any acquisition, strategic partnership, joint venture or collaboration to which the Company is a party, or the acquisition or license of any products or technology by the Company, but shall not include any such transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities; provided that the number of shares of Common Stock issued or underlying securities convertible or exercisable for Common Stock issued pursuant to clause (7) shall not exceed 3.7 million shares in the aggregate and provided further that, prior to the issuance of any such securities pursuant to clause (6) or (7), the Company shall cause the recipients of such securities to execute and deliver to the Representative letter agreements, each substantially in the form of Exhibit A hereto. The Company will cause each person and entity listed in Exhibit B to furnish to the Representative, prior to the Closing Date, a letter, substantially in the form of Exhibit A hereto. The Company also agrees that during such period, other than for the sale of the Stock and Warrants hereunder, the Company will not file any registration statement, preliminary prospectus or prospectus, or any amendment or supplement thereto, under the Securities Act for any such transaction or which registers, or offers for sale, Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock, except (i) for the filing of a registration statement at anytime on Form S-8 relating to employee benefit plans and Form S-4 relating to the transaction with PCT and (ii) for the filing of a registration statement at anytime after the 30th day following the date of this Agreement on Form S-3 related to the resale of the Company's Common Stock on behalf of selling stockholders who have registration rights outstanding as of the date of this Agreement. The Company hereby agrees that (i) if it issues an earnings release or material news, or if a material event relating to the Company occurs, during the last seventeen (17) days of the Lock-Up Period, or (ii) if prior to the expiration of the Lock-Up Period, the Company announces that it will release earnings results during the sixteen (16)-day period beginning on the last day of the Lock-Up Period, the restrictions imposed by this paragraph (l) or the letter shall continue to apply until the expiration of the eighteen (18)-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event. The Company will provide the Representative with prior notice (in accordance with Section 14 herein) of any such announcement that gives rise to an extension of the Lock-Up Period, subject to the Representative's agreement to hold such information in confidence prior to public disclosure of the same.

(m) To supply the Representative with copies of all correspondence to and from, and all documents issued to and by, the Commission in connection with the registration of the Stock and Warrants under the Securities Act or any of the Registration Statements, any Preliminary Prospectus or the Prospectus, or any amendment or supplement thereto or document incorporated by reference therein.

(n) Prior to the Closing Date, to furnish to the Representative, as soon as they have been prepared, copies of any unaudited interim consolidated financial statements of the Company and its subsidiaries for any periods subsequent to the periods covered by the financial statements appearing in the Registration Statements and the Prospectus.

(o) Prior to the Closing Date, not to issue any press release or other communication directly or indirectly or hold any press conference with respect to the Company, its condition, financial or otherwise, or earnings, business affairs or business prospects (except for routine oral marketing communications in the ordinary course of business and consistent with the past practices of the Company and of which the Representative is notified), without the prior written consent of the Representative, which consent shall not be unreasonably delayed, withheld or conditioned, unless in the judgment of the Company and its counsel, and after notification to the Representative, such press release or communication is required by law.

(p) Until Cowen shall have notified the Company of the completion of the resale of the Stock and Warrants, that the Company will not, and will use its reasonable best efforts to cause its affiliated purchasers (as defined in Regulation M under the Exchange Act) not to, either alone or with one or more other persons, bid for or purchase, for any account in which it or any of its affiliated purchasers has a beneficial interest, any Stock and Warrants, or attempt to induce any person to purchase any Stock and Warrants; and not to, and to use its reasonable best efforts to cause its affiliated purchasers not to, make bids or purchase for the purpose of creating actual, or apparent, active trading in or of raising the price of the Stock and Warrants.

- (q) To use its reasonable best efforts not to take any action prior the Closing Date which would require the Prospectus to be amended or supplemented pursuant to Section 4(d).
- (r) To at all times comply in all material respects with all applicable provisions of the Sarbanes-Oxley Act in effect from time to time and to file with the Commission such information on Form 10-Q or Form 10-K as may be required by Rule 463 of the Rules and Regulations.
- (s) To maintain, at its expense, a registrar and transfer agent for the Stock and Warrants.
- (t) To apply the net proceeds from the sale of the Stock and Warrants as set forth in the Registration Statement, the General Disclosure Package and the Prospectus under the heading "Use of Proceeds," and except as disclosed in the General Disclosure Package, the Company does not intend to use any of the proceeds from the sale of the Stock and Warrants hereunder to repay any outstanding debt owed to any affiliate of any Underwriter. The Company shall manage its affairs and investments in such a manner as not to be or become an "investment company" within the meaning of the Investment Company Act and the rules and regulations thereunder.
- (u) To use its best efforts to list, subject to notice of issuance, and to maintain the listing of the Stock and Warrant Shares on the Exchange.
- (v) To use its best efforts to do and perform all things required to be done or performed under this Agreement by the Company prior to the Closing Date and to satisfy all conditions precedent to the delivery of the Stock and Warrants.
- (w) To reserve and keep available at all times a sufficient number of shares of Common Stock for the purpose of enabling the Company to issue the Warrant Shares.
- (x) Upon request of any Underwriter, to furnish, or cause to be furnished, to such Underwriter an electronic version of the Company's corporate logo for use on the website, if any, operated by such Underwriter for the purpose of facilitating the on-line offering of the Stock and Warrants (the "License"); *provided, however* that the License shall be used solely for the purpose described above, is granted without any fee and may not be assigned or transferred.

5. **PAYMENT OF EXPENSES.** The Company agrees to pay, or reimburse if paid by any Underwriter, whether or not the transactions contemplated hereby are consummated or this Agreement is terminated: (a) the costs incident to the authorization, issuance, sale, preparation and delivery of the Stock and Warrants and any taxes payable in that connection; (b) the costs incident to the registration of the Stock and Warrants under the Securities Act; (c) the costs incident to the preparation, printing and distribution of the Registration Statements, the Base Prospectus, any Preliminary Prospectus, any Issuer Free Writing Prospectus, the General Disclosure Package, the Prospectus, any amendments, supplements and exhibits thereto or any document incorporated by reference therein and the costs of printing, reproducing and distributing, the "Agreement Among Underwriters" between the Representative and the Underwriters, the Master Selected Dealers' Agreement, the Underwriters' Questionnaire, this Agreement and any closing documents by mail, telex or other means of communications; (d) the fees and expenses (including related fees and expenses of counsel for the Underwriters) incurred in connection with securing any required review by FINRA of the terms of the sale of the Stock and Warrants and any filings made with FINRA; (e) any applicable listing or other fees; (f) the fees and expenses (including related fees and expenses of counsel to the Underwriters) of qualifying the Stock and Warrants under the securities laws of the several jurisdictions as provided in Section 4(j) and of preparing, printing and distributing wrappers, Blue Sky Memoranda and Legal Investment Surveys; (g) the cost of preparing and printing stock certificates and Warrants; (h) all fees and expenses of the registrar and transfer agent of the Stock and Warrants; (i) the fees, disbursements and expenses of counsel to the Underwriters; (j) the costs and expenses of the Company relating to investor presentations on any "road show" undertaken in connection with the marketing of the offering of the Stock and Warrants, including, without limitation, expenses associated with the preparation or dissemination of any electronic road show, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged in connection with the road show presentations with the prior approval of the Company, travel and lodging expenses of the officers of the Company and such consultants, including the cost of any aircraft chartered in connection with the road show, and (k) all other costs and expenses incident to the offering of the Stock and Warrants or the performance of the obligations of the Company under this Agreement (including, without limitation, the fees and expenses of the Company's counsel and the Company's independent accountants); *provided* that the Company shall not be liable for and shall not be obligated to pay any such fees, costs, expenses or disbursements to the Underwriters for out-of-pocket expenses (including fees, costs, expenses or disbursements for the Underwriters' counsel) in excess of \$45,950 in the aggregate; and *provided further* that, except to the extent otherwise provided in this Section 5 and in Sections 9 and 10, the Underwriters shall pay their own costs and expenses, including the fees and expenses of their counsel, any transfer taxes on the resale of any Stock and Warrants by them and the expenses of advertising any offering of the Stock and Warrants made by the Underwriters

6. **CONDITIONS OF UNDERWRITERS' OBLIGATIONS.** The respective obligations of the several Underwriters hereunder are subject to the accuracy, when made and as of the Applicable Time and on the Closing Date, of the representations and warranties of the Company contained herein, to the accuracy of the statements of the Company made in any certificates pursuant to the provisions hereof, to the performance by the Company of its obligations hereunder, and to each of the following additional terms and conditions:

(a) The Registration Statements have become effective under the Securities Act, and no stop order suspending the effectiveness of any Registration Statement or any part thereof, preventing or suspending the use of any Base Prospectus, any Preliminary Prospectus, the Prospectus or any Permitted Free Writing Prospectus or any part thereof shall have been issued and no proceedings for that purpose or pursuant to Section 8A under the Securities Act shall have been initiated or threatened by the Commission, and all requests for additional information on the part of the Commission (to be included or incorporated by reference in the Registration Statements or the Prospectus or otherwise) shall have been complied with to the reasonable satisfaction of the Representative; the Rule 462(b) Registration Statement, if any, each Issuer Free Writing Prospectus and the Prospectus shall have been filed with, the Commission within the applicable time period prescribed for such filing by, and in compliance with, the Rules and Regulations and in accordance with Section 4(a), and the Rule 462(b) Registration Statement, if any, shall have become effective immediately upon its filing with the Commission; and FINRA shall have raised no objection to the fairness and reasonableness of the terms of this Agreement or the transactions contemplated hereby.

- (b) None of the Underwriters shall have discovered and disclosed to the Company on or prior to the Closing Date that any Registration Statement or any amendment or supplement thereto contains an untrue statement of a fact which, in the opinion of counsel for the Underwriters, is material or omits to state any fact which, in the opinion of such counsel, is material and is required to be stated therein or is necessary to make the statements therein not misleading, or that the General Disclosure Package, any Issuer Free Writing Prospectus or the Prospectus or any amendment or supplement thereto contains an untrue statement of fact which, in the opinion of such counsel, is material or omits to state any fact which, in the opinion of such counsel, is material and is necessary in order to make the statements, in the light of the circumstances in which they were made, not misleading.
- (c) All corporate proceedings incident to the authorization, form and validity of each of this Agreement, the Stock, the Warrants, the Registration Statements, the General Disclosure Package, each Issuer Free Writing Prospectus and the Prospectus and the transactions contemplated hereby shall be reasonably satisfactory in all material respects to counsel for the Underwriters, and the Company shall have furnished to such counsel all documents and information that they may reasonably request to enable them to pass upon such matters.
- (d) Lowenstein Sandler PC shall have furnished to the Representative such counsel's written opinion and negative assurance statement, as counsel to the Company, addressed to the Underwriters and dated the Closing Date, in form and substance reasonably satisfactory to the Representative and set forth on Exhibit C hereto.
- (e) Jun He Law Offices LLC shall have furnished to the Representative such counsel's written opinion and negative assurance statement, as PRC counsel to the Company, addressed to the Underwriters and dated the Closing Date, in form and substance reasonably satisfactory to the Representative and set forth on Exhibit D hereto.
- (f) Fuerst Ittleman, PL shall have furnished to the Representative such counsel's written opinion and negative assurance statement, as FDA counsel to the Company, addressed to the Underwriters and dated the Closing Date, in form and substance reasonably satisfactory to the Representative and set forth on Exhibit E hereto.

- (g) Kenyon & Kenyon LLP shall have furnished to the Representative such counsel's written opinion and negative assurance statement, as Intellectual Property counsel to the Company, addressed to the Underwriters and dated the Closing Date, in form and substance reasonably satisfactory to the Representative and set forth on Exhibit F hereto.
- (h) Epstein Becker & Green, P.C. shall have furnished to the Representative such counsel's written opinion and negative assurance statement, as special counsel to PCT, addressed to the Underwriters and dated the Closing Date, in form and substance reasonably satisfactory to the Representative and set forth on Exhibit G hereto.
- (i) The Representative shall have received from Goodwin Procter LLP, counsel for the Underwriters, such counsel's written opinion and negative assurance statement, dated the Closing Date, with respect to such matters as the Underwriters may reasonably require, and the Company shall have furnished to such counsel such documents as they request for enabling them to pass upon such matters.
- (j) At the time of the execution of this Agreement, the Representative shall have received from each of (i) Holtz Rubenstein Reminick LLP, (ii) Deloitte & Touche LLP, and (iii) EisnerAmper LLP, a letter, addressed to the Underwriters, executed and dated such date, in form and substance satisfactory to the Representative (i) confirming that they are an independent registered accounting firm with respect to the Company or PCT, as applicable, within the meaning of the Securities Act and the Rules and Regulations and PCAOB and (ii) stating the conclusions and findings of such firm, of the type ordinarily included in accountants' "comfort letters" to underwriters, with respect to the financial statements and certain financial information contained or incorporated by reference in the Registration Statements, the General Disclosure Package and the Prospectus.
- (k) On the effective date of any post-effective amendment to any Registration Statement and on the Closing Date, the Representative shall have received a letter (the "bring-down letter") from each of (i) Holtz Rubenstein Reminick LLP, (ii) Deloitte & Touche LLP, and (iii) EisnerAmper LLP addressed to the Underwriters and dated the Closing Date confirming, as of the date of the bring-down letter (or, with respect to matters involving changes or developments since the respective dates as of which specified financial information is given in the General Disclosure Package and the Prospectus, as the case may be, as of a date not more than three (3) business days prior to the date of the bring-down letter), the conclusions and findings of such firm, of the type ordinarily included in accountants' "comfort letters" to underwriters, with respect to the financial information and other matters covered by its letter delivered to the Representative concurrently with the execution of this Agreement pursuant to paragraph (j) of this Section 6.

(l) The Company shall have furnished to the Representative a certificate, dated the Closing Date, of its Chief Executive Officer and its Chief Financial Officer stating that (i) such officers have carefully examined the Registration Statement, the General Disclosure Package, any Permitted Free Writing Prospectus and the Prospectus and, in their opinion, the Registration Statements and each amendment thereto, at the Applicable Time, as of the date of this Agreement and as of the Closing Date did not include any untrue statement of a material fact and did not omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and the General Disclosure Package, as of the Applicable Time and as of the Closing Date, any Permitted Free Writing Prospectus as of its date and as of the Closing Date, the Prospectus and each amendment or supplement thereto, as of the respective date thereof and as of the Closing Date, did not include any untrue statement of a material fact and did not omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances in which they were made, not misleading, (ii) since the effective date of the Initial Registration Statement, no event has occurred which should have been set forth in a supplement or amendment to the Registration Statements, the General Disclosure Package or the Prospectus, (iii) to the best of their knowledge after reasonable investigation, as of the Closing Date, the representations and warranties of the Company in this Agreement are true and correct and the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date, and (iv) there has not been, subsequent to the date of the most recent audited financial statements included or incorporated by reference in the General Disclosure Package, any material adverse change in the financial position or results of operations of the Company and its subsidiaries, or any change or development that, singularly or in the aggregate, would involve a material adverse change or a prospective material adverse change, in or affecting the condition (financial or otherwise), results of operations, business, assets or prospects of the Company and its subsidiaries, except as set forth in the General Disclosure Package or the Prospectus.

(m) Since the date of the latest audited financial statements included in the General Disclosure Package or incorporated by reference in the General Disclosure Package as of the date hereof, (i) neither the Company nor any of its subsidiaries shall have sustained any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth in the General Disclosure Package, and (ii) there shall not have been any change in the capital stock (other than stock option and warrant exercises and stock repurchases in the ordinary course of business) or long-term debt of the Company or any of its subsidiaries, or any change, or any development involving a prospective change, in or affecting the business, general affairs, management, financial position, stockholders' equity or results of operations of the Company and its subsidiaries, otherwise than as set forth in the General Disclosure Package, the effect of which, in any such case described in clause (i) or (ii) of this paragraph (i) is, in the judgment of the Representative, so material and adverse as to make it impracticable or inadvisable to proceed with the sale or delivery of the Stock and Warrants on the terms and in the manner contemplated in the General Disclosure Package.

- (n) No action shall have been taken and no law, statute, rule, regulation or order shall have been enacted, adopted or issued by any governmental agency or body which would prevent the issuance or sale of the Stock and Warrants or materially and adversely affect or potentially materially and adversely affect the business or operations of the Company; and no injunction, restraining order or order of any other nature by any federal or state court of competent jurisdiction shall have been issued which would prevent the issuance or sale of the Stock and Warrants or materially and adversely affect or potentially materially and adversely affect the business or operations of the Company.
- (o) The Concurrent Preferred Offering shall have been completed on the Closing Date in accordance with its terms.
- (p) Subsequent to the execution and delivery of this Agreement there shall not have occurred any of the following: (i) trading in securities generally on the New York Stock Exchange, Nasdaq Global Market or the NYSE Amex or in the over-the-counter market, or trading in any securities of the Company on any exchange or in the over-the-counter market, shall have been suspended or materially limited, or minimum or maximum prices or maximum range for prices shall have been established on any such exchange or such market by the Commission, by such exchange or market or by any other regulatory body or governmental authority having jurisdiction, (ii) a banking moratorium shall have been declared by Federal or state or PRC authorities or a material disruption has occurred in commercial banking or securities settlement or clearance services in the United States or the PRC, (iii) the United States or the PRC shall have become engaged in hostilities, or the subject of an act of terrorism, or there shall have been an outbreak of or escalation in hostilities involving the United States or the PRC, or there shall have been a declaration of a national emergency or war by the United States or the PRC or (iv) there shall have occurred such a material adverse change in general economic, political or financial conditions (or the effect of international conditions on the financial markets in the United States or the PRC shall be such) as to make it, in the judgment of the Representative, impracticable or inadvisable to proceed with the sale or delivery of the Stock and Warrants on the terms and in the manner contemplated in the General Disclosure Package and the Prospectus.
- (q) The Exchange shall have approved the Stock and Warrant Shares for listing therein, subject only to official notice of issuance.
- (r) Cowen shall have received on and as of the Closing Date satisfactory evidence of the good standing of the Company and its subsidiaries in their respective jurisdictions of organization and their good standing as foreign entities in such other jurisdictions as Cowen may reasonably request, in each case in writing or any standard form of telecommunication from the appropriate Governmental Authorities of such jurisdictions.
- (s) Cowen shall have received the written agreements, substantially in the form of Exhibit A hereto, of the persons and entities listed in Exhibit B to this Agreement.
- (t) The Company shall have furnished to the Underwriters a Certificate of the Chief Financial Officer of the Company, in form and substance reasonably satisfactory to counsel for the Underwriters.

(u) The Company shall have furnished to the Underwriters a Certificate of the Chief Financial Officer of PCT, in form and substance reasonably satisfactory to counsel for the Underwriters.

(v) The Company shall have furnished to the Underwriters a Secretary's Certificate of the Company, in form and substance reasonably satisfactory to counsel for the Underwriters.

(w) On or prior to the Closing Date, the Company shall have furnished to Cowen such further certificates and documents as Cowen may reasonably request.

All opinions, letters, evidence and certificates mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for the Underwriters.

7. *INDEMNIFICATION AND CONTRIBUTION.*

(a) The Company shall indemnify and hold harmless each Underwriter, its directors, officers, managers, members, employees, representatives and agents and each person, if any, who controls any Underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively the "Underwriter Indemnified Parties," and each an "Underwriter Indemnified Party") against any loss, claim, damage, expense or liability whatsoever (or any action, investigation or proceeding in respect thereof), joint or several, to which such Underwriter Indemnified Party may become subject, under the Securities Act or otherwise, insofar as such loss, claim, damage, expense, liability, action, investigation or proceeding arises out of or is based upon (A) any untrue statement or alleged untrue statement of a material fact contained in any Preliminary Prospectus, any Issuer Free Writing Prospectus, any "issuer information" that is used in connection with the offering and sale of the Stock and Warrants by, or with the approval of, the Company filed or required to be filed pursuant to Rule 433(d) of the Rules and Regulations, any Registration Statement or the Prospectus, or in any amendment or supplement thereto or document incorporated by reference therein, or (B) the omission or alleged omission to state in any Preliminary Prospectus, any Issuer Free Writing Prospectus, any "issuer information" that is used in connection with the offering and sale of the Stock and Warrants by, or with the approval of, the Company filed or required to be filed pursuant to Rule 433(d) of the Rules and Regulations, any Registration Statement or the Prospectus, or in any amendment or supplement thereto or document incorporated by reference therein, a material fact required to be stated therein or necessary to make the statements therein in light of (other than in the case of any Registration Statement) the circumstances under which they are made not misleading, and shall reimburse each Underwriter Indemnified Party promptly upon demand for any legal fees or other expenses reasonably incurred by that Underwriter Indemnified Party in connection with investigating, or preparing to defend, or defending against, or appearing as a third party witness in respect of, or otherwise incurred in connection with, any such loss, claim, damage, expense, liability, action, investigation or proceeding, as such fees and expenses are incurred; *provided, however*, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage, expense or liability arises out of or is based upon an untrue statement or alleged untrue statement in, or omission or alleged omission from any Preliminary Prospectus, any Registration Statement or the Prospectus, or any such amendment or supplement thereto, or any Issuer Free Writing Prospectus made in reliance upon and in conformity with written information furnished to the Company through the Representative by or on behalf of any Underwriter specifically for use therein, which information the parties hereto agree is limited to the Underwriter's Information (as defined in Section 17).

The indemnity agreement in this [Section 7\(a\)](#) is not exclusive and is in addition to each other liability which the Company might have under this Agreement or otherwise, and shall not limit any rights or remedies which may otherwise be available under this Agreement, at law or in equity to any Underwriter Indemnified Party.

(b) Each Underwriter, severally and not jointly, shall indemnify and hold harmless the Company and its directors, its officers who signed the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively the “[Company Indemnified Parties](#)” and each a “[Company Indemnified Party](#)”) against any loss, claim, damage, expense or liability whatsoever (or any action, investigation or proceeding in respect thereof), joint or several, to which such Company Indemnified Party may become subject, under the Securities Act or otherwise, insofar as such loss, claim, damage, expense, liability, action, investigation or proceeding arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material fact contained in any Preliminary Prospectus, any Issuer Free Writing Prospectus, any “issuer information” filed or required to be filed pursuant to Rule 433(d) of the Rules and Regulations, any Registration Statement or the Prospectus, or in any amendment or supplement thereto, or (ii) the omission or alleged omission to state in any Preliminary Prospectus, any Issuer Free Writing Prospectus, any “issuer information” filed or required to be filed pursuant to Rule 433(d) of the Rules and Regulations, any Registration Statement or the Prospectus, or in any amendment or supplement thereto, a material fact required to be stated therein or necessary to make the statements therein in light of (other than in the case of any Registration Statement) the circumstances under which they are made not misleading, but in each case only to the extent that the untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information furnished to the Company through the Representative by or on behalf of that Underwriter specifically for use therein, which information the parties hereto agree is limited to the Underwriter’s Information as defined in [Section 17](#), and shall reimburse the Company Indemnified Parties promptly on demand for any legal or other expenses reasonably incurred by such party in connection with investigating or preparing to defend or defending against or appearing as third party witness in connection with any such loss, claim, damage, liability, action, investigation or proceeding, as such fees and expenses are incurred. This indemnity agreement is not exclusive and will be in addition to any liability which the Underwriters might otherwise have and shall not limit any rights or remedies which may otherwise be available under this Agreement, at law or in equity to the Company Indemnified Parties.

(c) Promptly after receipt by an indemnified party under this Section 7 of notice of the commencement of any action, the indemnified party shall, if a claim in respect thereof is to be made against an indemnifying party under this Section 7, notify such indemnifying party in writing of the commencement of that action; *provided, however*, that the failure to notify the indemnifying party shall not relieve it from any liability which it may have under this Section 7 except to the extent it has been materially prejudiced by such failure; and, *provided, further*, that the failure to notify an indemnifying party shall not relieve it from any liability which it may have to an indemnified party otherwise than under this Section 7. If any such action shall be brought against an indemnified party, and it shall notify the indemnifying party thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it wishes, jointly with any other similarly notified indemnifying party, to assume the defense of such action with counsel reasonably satisfactory to the indemnified party (which counsel shall not, except with the written consent of the indemnified party, be counsel to the indemnifying party). After notice from the indemnifying party to the indemnified party of its election to assume the defense of such action, except as provided herein, the indemnifying party shall not be liable to the indemnified party under Section 7 for any legal or other expenses subsequently incurred by the indemnified party in connection with the defense of such action other than reasonable costs of investigation; *provided, however*, that any indemnified party shall have the right to employ separate counsel in any such action and to participate in the defense of such action but the fees and expenses of such counsel (other than reasonable costs of investigation) shall be at the expense of such indemnified party unless (i) the employment thereof has been specifically authorized in writing by the Company in the case of a claim for indemnification under Section 7(a) or Cowen in the case of a claim for indemnification under Section 7(b), (ii) such indemnified party shall have been advised by its counsel that there may be one or more legal defenses available to it which are different from or additional to those available to the indemnifying party, or (iii) the indemnifying party has failed to assume the defense of such action and employ counsel reasonably satisfactory to the indemnified party within a reasonable period of time after notice of the commencement of the action or the indemnifying party does not diligently defend the action after assumption of the defense, in which case, if such indemnified party notifies the indemnifying party in writing that it elects to employ separate counsel at the expense of the indemnifying party, the indemnifying party shall not have the right to assume the defense of (or, in the case of a failure to diligently defend the action after assumption of the defense, to continue to defend) such action on behalf of such indemnified party and the indemnifying party shall be responsible for legal or other expenses subsequently incurred by such indemnified party in connection with the defense of such action; *provided, however*, that the indemnifying party shall not, in connection with any one such action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys at any time for all such indemnified parties (in addition to any local counsel), which firm shall be designated in writing by Cowen if the indemnified parties under this Section 7 consist of any Underwriter Indemnified Party or by the Company if the indemnified parties under this Section 7 consist of any Company Indemnified Parties. Subject to this Section 7(c), the amount payable by an indemnifying party under Section 7 shall include, but not be limited to, (x) reasonable legal fees and expenses of counsel to the indemnified party and any other expenses in investigating, or preparing to defend or defending against, or appearing as a third party witness in respect of, or otherwise incurred in connection with, any action, investigation, proceeding or claim, and (y) all amounts paid in settlement of any of the foregoing. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of judgment with respect to any pending or threatened action or any claim whatsoever, in respect of which indemnification or contribution could be sought under this Section 7 (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party in form and substance reasonably satisfactory to such indemnified party from all liability arising out of such action or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party. Subject to the provisions of the following sentence, no indemnifying party shall be liable for settlement of any pending or threatened action or any claim whatsoever that is effected without its written consent (which consent shall not be unreasonably withheld or delayed), but if settled with its written consent, if its consent has been unreasonably withheld or delayed or if there be a judgment for the plaintiff in any such matter, the indemnifying party agrees to indemnify and hold harmless any indemnified party from and against any loss or liability by reason of such settlement or judgment. In addition, if at any time an indemnified party shall have requested that an indemnifying party reimburse the indemnified party for fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Sections 7(a) or 7(b) effected without its written consent if (i) such settlement is entered into more than forty-five (45) days after receipt by such indemnifying party of the request for reimbursement, (ii) such indemnifying party shall have received notice of the terms of such settlement at least thirty (30) days prior to such settlement being entered into and (iii) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

(d) If the indemnification provided for in this Section 7 is unavailable or insufficient to hold harmless an indemnified party under Section 7(a) or Z(b), then each indemnifying party shall, in lieu of indemnifying such indemnified party, contribute to the amount paid, payable or otherwise incurred by such indemnified party as a result of such loss, claim, damage, expense or liability (or any action, investigation or proceeding in respect thereof), as incurred, (i) in such proportion as shall be appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Stock and Warrants, or (ii) if the allocation provided by clause (i) of this Section 7(d) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) of this Section 7(d) but also the relative fault of the Company on the one hand and the Underwriters on the other with respect to the statements, omissions, acts or failures to act which resulted in such loss, claim, damage, expense or liability (or any action, investigation or proceeding in respect thereof) as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other with respect to such offering shall be deemed to be in the same proportion as the total net proceeds from the offering of the Stock and Warrants purchased under this Agreement (before deducting expenses) received by the Company bear to the total underwriting discounts and commissions received by the Underwriters with respect to the Stock and Warrants purchased under this Agreement, in each case as set forth in the table on the cover page of the Prospectus. The relative fault of the Company on the one hand and the Underwriters on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or the Underwriters on the other, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such untrue statement, omission, act or failure to act; *provided* that the parties hereto agree that the written information furnished to the Company through the Representative by or on behalf of the Underwriters for use in the Preliminary Prospectus, any Registration Statement or the Prospectus, or in any amendment or supplement thereto, consists solely of the Underwriter's Information as defined in Section 17.

(e) The Company and the Underwriters agree that it would not be just and equitable if contributions pursuant to Section 7(d), above were to be determined by pro rata allocation or by any other method of allocation which does not take into account the equitable considerations referred to Section 7(d) above. The amount paid or payable by an indemnified party as a result of the loss, claim, damage, expense, liability, action, investigation or proceeding referred to in Section 7(d) above shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating, preparing to defend or defending against or appearing as a third party witness in respect of, or otherwise incurred in connection with, any such loss, claim, damage, expense, liability, action, investigation or proceeding. Notwithstanding the provisions of this Section 7, no Underwriters shall be required to contribute any amount in excess of the total underwriting discounts and commissions received by such Underwriter with respect to the offering of the Stock and Warrants exceeds the amount of any damages which the Underwriter has otherwise paid or become liable to pay by reason of any untrue or alleged untrue statement, omission or alleged omission, act or alleged act or failure to act or alleged failure to act. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations to contribute as provided in this Section 7 are several in proportion to their respective underwriting obligations and not joint.

8. **TERMINATION.** The obligations of the Underwriters hereunder may be terminated by Cowen, in its absolute discretion by notice given to the Company prior to delivery of and payment for the Stock and Warrants if, prior to that time, any of the events described in Sections 6(m) or 6(p) have occurred, or if the Underwriters shall decline to purchase the Stock and Warrants for any reason permitted under this Agreement (other than as a result of a termination pursuant to Section 10).

9. **REIMBURSEMENT OF UNDERWRITERS' EXPENSES.** Notwithstanding anything to the contrary in this Agreement, if (a) this Agreement shall have been terminated pursuant to Section 8 or 10, (b) the Company shall fail to tender the Stock and Warrants for delivery to the Underwriters for any reason not permitted under this Agreement, (c) the Underwriters shall decline to purchase the Stock and Warrants for any reason permitted under this Agreement, (d) the sale of the Stock and Warrants is not consummated because any condition to the obligations of the Underwriters set forth herein is not satisfied or (e) the sale of the Stock and Warrants is not consummated because of the refusal, inability or failure on the part of the Company to perform any agreement herein or to satisfy any condition or to comply with the provisions hereof, then in addition to the payment of amounts in accordance with Section 5, the Company shall reimburse the Underwriters for the fees and expenses of Underwriters' counsel and for such other out-of-pocket expenses as shall have been reasonably incurred by them in connection with this Agreement and the proposed purchase of the Stock and Warrants, including, without limitation, travel and lodging expenses of the Underwriters, and upon demand the Company shall pay the full amount thereof to Cowen; provided that in no event shall the Company be obligated to reimburse the Underwriters pursuant to clauses (a), (c) or (d) in an amount in excess of \$125,000 in the aggregate. If this Agreement is terminated pursuant to Section 10 by reason of the default of one or more Underwriters, the Company shall not be obligated to reimburse any defaulting Underwriter on account of expenses to the extent incurred by such defaulting Underwriter *provided* that the foregoing shall not limit any reimbursement obligation of the Company to any non-defaulting Underwriter under this Section 9.

10. **SUBSTITUTION OF UNDERWRITERS.** If any Underwriter or Underwriters shall default in its or their obligations to purchase shares of Stock and Warrants hereunder on the Closing Date and the aggregate number of shares which such defaulting Underwriter or Underwriters agreed but failed to purchase does not exceed ten percent (10%) of the total number of shares to be purchased by all Underwriters on the Closing Date, the other Underwriters shall be obligated severally, in proportion to their respective commitments hereunder, to purchase the shares which such defaulting Underwriter or Underwriters agreed but failed to purchase on the Closing Date. If any Underwriter or Underwriters shall so default and the aggregate number of shares with respect to which such default or defaults occur is more than ten percent (10%) of the total number of shares to be purchased by all Underwriters on the Closing Date and arrangements satisfactory to the Representative and the Company for the purchase of such shares by other persons are not made within forty-eight (48) hours after such default, this Agreement shall terminate.

If the remaining Underwriters or substituted Underwriters are required hereby or agree to take up all or part of the shares of Stock and Warrants of a defaulting Underwriter or Underwriters on the Closing Date as provided in this Section 10, (i) the Company shall have the right to postpone the Closing Date for a period of not more than five (5) full business days in order that the Company may effect whatever changes may thereby be made necessary in the Registration Statements or the Prospectus, or in any other documents or arrangements, and the Company agrees promptly to file any amendments to the Registration Statements or supplements to the Prospectus which may thereby be made necessary, and (ii) the respective numbers of shares to be purchased by the remaining Underwriters or substituted Underwriters shall be taken as the basis of their underwriting obligation for all purposes of this Agreement. Nothing herein contained shall relieve any defaulting Underwriter of its liability to the Company or the other Underwriters for damages occasioned by its default hereunder. Any termination of this Agreement pursuant to this Section 10 shall be without liability on the part of any non-defaulting Underwriter or the Company, except that the representations, warranties, covenants, indemnities, agreements and other statements set forth in Section 2, the obligations with respect to expenses to be paid or reimbursed pursuant to Sections 5 and 9 and the provisions of Section 7 and Sections 11 through 21, inclusive, shall not terminate and shall remain in full force and effect.

11. *ABSENCE OF FIDUCIARY RELATIONSHIP.* The Company acknowledges and agrees that:

- (a) each Underwriter's responsibility to the Company is solely contractual in nature, the Representative have been retained solely to act as underwriters in connection with the sale of the Stock and Warrants and no fiduciary, advisory or agency relationship between the Company and the Representative has been created in respect of any of the transactions contemplated by this Agreement, irrespective of whether the Representative has advised or is advising the Company on other matters;
- (b) the price of the Stock and Warrants set forth in this Agreement was established by the Company following discussions and arms-length negotiations with the Representative, and the Company is capable of evaluating and understanding, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement;
- (c) it has been advised that the Representative and its affiliates are engaged in a broad range of transactions which may involve interests that differ from those of the Company and that the Representative has no obligation to disclose such interests and transactions to the Company by virtue of any fiduciary, advisory or agency relationship; and
- (d) it waives, to the fullest extent permitted by law, any claims it may have against the Representative for breach of fiduciary duty or alleged breach of fiduciary duty and agrees that the Representative shall have no liability (whether direct or indirect) to the Company in respect of such a fiduciary duty claim or to any person asserting a fiduciary duty claim on behalf of or in right of the Company, including stockholders, employees or creditors of the Company.

12. *SUCCESSORS; PERSONS ENTITLED TO BENEFIT OF AGREEMENT.* This Agreement shall inure to the benefit of and be binding upon the several Underwriters, the Company and their respective successors and assigns. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, other than the persons mentioned in the preceding sentence, any legal or equitable right, remedy or claim under or in respect of this Agreement, or any provisions herein contained, this Agreement and all conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of such persons and for the benefit of no other person; except that the representations, warranties, covenants, agreements and indemnities of the Company contained in this Agreement shall also be for the benefit of the Underwriter Indemnified Parties, and the indemnities of the several Underwriters shall be for the benefit of the Company Indemnified Parties. It is understood that each Underwriter's responsibility to the Company is solely contractual in nature and the Underwriters do not owe the Company, or any other party, any fiduciary duty as a result of this Agreement. No purchaser of any of the Stock and Warrants from any Underwriter shall be deemed to be a successor or assign by reason merely of such purchase.

13. **SURVIVAL OF INDEMNITIES, REPRESENTATIONS, WARRANTIES, ETC.** The respective indemnities, covenants, agreements, representations, warranties and other statements of the Company and the several Underwriters, as set forth in this Agreement or made by them respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation made by or on behalf of any Underwriter, the Company or any person controlling any of them and shall survive delivery of and payment for the Stock and Warrants. Notwithstanding any termination of this Agreement, including without limitation any termination pursuant to Section 8 or Section 10, the indemnities, covenants, agreements, representations, warranties and other statements forth in Sections 2, 5, 7 and 9 and Sections 11 through 21, inclusive, of this Agreement shall not terminate and shall remain in full force and effect at all times.

14. **NOTICES.** All statements, requests, notices and agreements hereunder shall be in writing, and:

(a) if to the Underwriters, shall be delivered or sent by mail, telex, or facsimile transmission to Cowen and Company, LLC, 1221 Avenue of the Americas, New York, New York 10020, Attention: Head of Equity Capital Markets, Fax: 646-562-1249 with a copy to the General Counsel, Fax: 646-562-1861, with a copy (which shall not constitute notice hereunder) to Goodwin Procter LLP, The New York Times Building, 620 Eighth Avenue, New York, New York 10018, Attention: Michael D. Maline, Esq., Fax: 212-355-3333; and

(b) if to the Company, shall be delivered or sent by mail, telex, or facsimile transmission to NeoStem, Inc., 420 Lexington Avenue, Suite 450, New York, New York 10170, Attention: General Counsel, Fax: 646-514-7787, with a copy (which shall not constitute notice hereunder) to Lowenstein Sandler PC, 65 Livingston Avenue, Roseland, New Jersey 07068, Attention: Alan Wovsaniker, Esq., Fax: 973-597-2400;

provided, however, that any notice to an Underwriter pursuant to Section 7 shall be delivered or sent by mail, or facsimile transmission to such Underwriter at its address set forth in its acceptance telex to the Representative, which address will be supplied to any other party hereto by the Representative upon request. Any such statements, requests, notices or agreements shall take effect at the time of receipt thereof.

15. **DEFINITION OF CERTAIN TERMS.** For purposes of this Agreement, (a) "business day" means any day on which the New York Stock Exchange, Inc. is open for trading and (b) "subsidiary" has the meaning set forth in Rule 405 of the Rules and Regulations.

16. **GOVERNING LAW AND JURISDICTION.** **This Agreement shall be governed by and construed in accordance with the laws of the State of New York, including without limitation Section 5-1401 of the New York General Obligations.** The Company irrevocably (a) submits to the non-exclusive jurisdiction of the Federal and state courts in the Borough of Manhattan in The City of New York for the purpose of any suit, action or other proceeding arising out of this Agreement or the transactions contemplated by this Agreement, the Registration Statements and any Preliminary Prospectus or the Prospectus, (b) agrees that all claims in respect of any such suit, action or proceeding may be heard and determined by any such court, (c) waives to the fullest extent permitted by applicable law, any immunity from the jurisdiction of any such court or from any legal process, (d) agrees not to commence any such suit, action or proceeding other than in such courts, and (e) waives, to the fullest extent permitted by applicable law, any claim that any such suit, action or proceeding is brought in an inconvenient forum.

17. *UNDERWRITERS' INFORMATION.* The parties hereto acknowledge and agree that, for all purposes of this Agreement, the Underwriters' Information consists solely of the statements concerning the Underwriters contained in the ninth, tenth, eleventh and fifteenth paragraphs under the heading "Underwriting" in the Prospectus.

18. *AUTHORITY OF THE REPRESENTATIVE.* In connection with this Agreement, you will act for and on behalf of the several Underwriters, and any action taken under this Agreement by the Representative, will be binding on all the Underwriters.

19. *PARTIAL UNENFORCEABILITY.* The invalidity or unenforceability of any section, paragraph, clause or provision of this Agreement shall not affect the validity or enforceability of any other section, paragraph, clause or provision hereof. If any section, paragraph, clause or provision of this Agreement is for any reason determined to be invalid or unenforceable, there shall be deemed to be made such minor changes (and only such minor changes) as are necessary to make it valid and enforceable.

20. *GENERAL.* This Agreement constitutes the entire agreement of the parties to this Agreement and supersedes all prior written or oral and all contemporaneous oral agreements, understandings and negotiations with respect to the subject matter hereof, including, without limitation the letter agreement dated as of October 20, 2010 between the Company and Cowen and Company, LLC. In this Agreement, the masculine, feminine and neuter genders and the singular and the plural include one another. The section headings in this Agreement are for the convenience of the parties only and will not affect the construction or interpretation of this Agreement. This Agreement may be amended or modified, and the observance of any term of this Agreement may be waived, only by a writing signed by the Company and the Representative.

21. *COUNTERPARTS.* This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

If the foregoing is in accordance with your understanding of the agreement between the Company and the several Underwriters, kindly indicate your acceptance in the space provided for that purpose below.

Very truly yours,

NEOSTEM, INC.

By: /s/ Robin L. Smith
Name: Robin L. Smith
Title: Chief Executive Officer

Accepted as of the
date first above written:

COWEN AND COMPANY, LLC

Acting on its own behalf and as Representative
of the several Underwriters referred to in the foregoing Agreement.

By: /s/ Kevin J. Raidy
Name: Kevin J. Raidy
Title: Managing Director

SCHEDULE I

Underwriters

Name	Number of Shares of Stock to be Purchased	Number of Warrants to be Purchased
Cowen and Company, LLC	2,933,724	1,466,862
Maxim Group LLC	1,702,128	851,064
National Securities Corporation	<u>1,702,128</u>	<u>851,064</u>
Total	6,337,980	3,168,990

SCHEDULE II

General Use Free Writing Prospectuses

None.

SCHEDULE III

Pricing Information

Number of Shares Sold: 6,337,980

Number of Warrants Sold: 3,168,990

Purchase Price Per Unit: \$1.45

Net Proceeds to the Company: \$8.5 million (excluding reimbursable expenses)

Schedule 2(ff)

The Company's Erye subsidiary has approved the conversion of some of Erye's reserve capital into registered capital. The formal process for making that conversion has not been completed. Therefore Erye's registered capital has not yet been fully paid to such extent.

EXHIBIT A

Form of Lock-Up Agreement

EXHIBIT B

Officers, Directors, and Shareholders Executing Lock-Up Agreements

Drew Bernstein
Eric H.C. Wei
Robin L. Smith, M.D., MBA
Richard Berman
Steven S. Myers
Edward C. Geehr, M.D.
Larry A. May
Catherine M. Vaczy
Alan G. Harris, M.D., Ph.D.
Anthony Salerno
Teresa Lepore
Christopher Duignan
Madam Zhang Jian
Shi Mingsheng
Peter Sun
Daisy Dai
Ian Zhang
Shari Pine
Wayne Marasco
Jian Qian Cai Mao
Chris Peng Mao
Fulbright Finance Limited
RimAsia

Form of Legal Opinion and Negative Assurance Statement of Lowenstein Sandler PC

EXHIBIT D

Form of Legal Opinion and Negative Assurance Statement of Jun He Law Offices LLC

EXHIBIT E

Form of Legal Opinion and Negative Assurance Statement of Fuerst Ittleman PL

Form of Legal Opinion and Negative Assurance Statement of Kenyon & Kenyon LLP

EXHIBIT G

Form of Legal Opinion and Negative Assurance Statement of Epstein Becker & Green P.C.

EXHIBIT H

Form of Warrant

10,582,011 Convertible Preferred Shares

Warrants to Purchase 1,322,486 Shares

164,418 Common Shares

NEOSTEM, INC.

PLACEMENT AGENCY AGREEMENT

November 16, 2010

COWEN AND COMPANY, LLC

As Representative of the several Placement Agents

1221 Avenue of the Americas

New York, New York 10020

Dear Sirs:

NeoStem, Inc., a Delaware corporation (the "Company"), proposes to sell to certain purchasers (each a "Purchaser" and collectively, the "Purchasers"), pursuant to the terms of this Agreement and that certain securities purchase agreement in the form of Exhibit I attached hereto (the "Subscription Agreement"), (i) an aggregate of 10,582,011 shares of convertible preferred stock, \$0.01 par value (the "Preferred Stock"), of the Company, (ii) an aggregate of 164,418 shares of common stock, \$0.001 par value (the "Common Stock"), of the Company (the "Stock") and (iii) warrants to purchase an aggregate of 1,322,486 shares of Common Stock (the "Warrants") in the form attached hereto as Exhibit H. The shares of Common Stock underlying the Preferred Stock are hereinafter referred to as the "Conversion Shares" and the shares of Common Stock underlying the Warrants are hereinafter referred to as the "Warrant Shares". The Company hereby confirms that Cowen and Company, LLC ("Cowen") and LifeTech Capital, a division of Aurora Capital, LLC ("LifeTech") and together with Cowen, the "Placement Agents") acted as Placement Agents in the sale of the Preferred Stock, Stock and Warrants in accordance with the terms and conditions of this Placement Agent Agreement (this "Agreement") and the Subscription Agreement. Cowen is acting as representative of the several Placement Agents and in such capacity is hereinafter referred to as the "Representative."

1. *AGREEMENT TO ACT AS PLACEMENT AGENTS; PLACEMENT OF SECURITIES.* On the basis of the representations, warranties and agreements of the Company contained herein, and subject to all the terms and conditions of this Agreement:

(a) The Company hereby acknowledges that the Placement Agents acted as its agents to solicit offers for the purchase of all or part of the Preferred Stock, Stock and Warrants from the Company in connection with the proposed offering of the Preferred Stock, Stock and Warrants (the "Offering"). Until the Closing Date (as defined hereof), the Company shall not, without the prior written consent of the Representative, solicit or accept offers to purchase the Preferred Stock, Stock and Warrants otherwise than through the Placement Agents.

(b) The Company hereby acknowledges that the Placement Agents, as agents of the Company, used its reasonable best efforts to solicit offers to purchase the Preferred Stock, Stock and Warrants from the Company on the terms and subject to the conditions set forth in the Prospectus (as defined below). The Placement Agents shall use reasonable best efforts to assist the Company in obtaining performance by each Purchaser whose offer to purchase the Preferred Stock, Stock and Warrants was solicited by the Placement Agents and accepted by the Company, but the Placement Agents shall not, except as otherwise provided in this Agreement, be obligated to disclose the identity of any potential purchaser or have any liability to the Company in the event any such purchase is not consummated for any reason. Under no circumstances will the Placement Agents be obligated to underwrite or purchase any Preferred Stock, Stock and Warrants for its own account and, in soliciting purchases of Preferred Stock, Stock and Warrants, the Placement Agents acted solely as the Company's agents and not as principals. Notwithstanding the foregoing and except as otherwise provided in this Section 2(b), it is understood and agreed that the Placement Agents (or their affiliates) may, solely at their discretion and without any obligation to do so, purchase the Preferred Stock, Stock and Warrants as principals.

(c) Offers for the purchase of Preferred Stock, Stock and Warrants were solicited by the Placement Agents as agents for the Company at such times and in such amounts as the Placement Agents deemed advisable. The Placement Agents communicated to the Company, orally or in writing, each reasonable offer to purchase Preferred Stock, Stock and Warrants received by them as agents of the Company. The Company shall have the sole right to accept offers to purchase the Preferred Stock, Stock and Warrants and may reject any such offer, in whole or in part. The Placement Agents have the right, in their discretion, without notice to the Company, to reject any offer to purchase Preferred Stock, Stock and Warrants received by them, in whole or in part, and any such rejection shall not be deemed a breach of this Agreement.

(d) The Preferred Stock, Stock and Warrants are being sold to the Purchasers at a price of \$0.945 per unit. The purchases of the Preferred Stock, Stock and Warrants by the Purchasers shall be evidenced by the execution of the Subscription Agreement by each of the Purchasers and the Company.

(e) As compensation for services rendered, on the Closing Date, the Company shall pay or cause to be paid to the Representative on behalf of the Placement Agents by wire transfer of immediately available funds to an account or accounts designated by the Representative, an aggregate amount equal to seven and one-half percent (7.5%) of the gross proceeds of the Offering.

(f) No Preferred Stock, Stock and Warrants which the Company has agreed to sell pursuant to this Agreement and the Subscription Agreement shall be deemed to have been purchased and paid for, or sold by the Company, until such Preferred Stock, Stock and Warrants shall have been delivered to the Purchaser thereof against payment by such Purchaser. If the Company shall default in its obligations to deliver Preferred Stock, Stock and Warrants to a Purchaser whose offer it has accepted, the Company shall indemnify and hold the Placement Agents harmless against any loss, claim, damage or expense arising from or as a result of such default by the Company in accordance with the procedures set forth herein.

2. **REPRESENTATIONS AND WARRANTIES OF THE COMPANY.** The Company represents and warrants to the several Placement Agents, as of the date hereof and as of the Closing Date (as defined below), and agrees with the several Placement Agents, that:

(a) A registration statement of the Company on Form S-3 (File No. 333-166169) (including all pre-effective amendments thereto and all post-effective amendments thereto filed before execution of this Agreement, the "Initial Registration Statement") in respect of the Preferred Stock, Stock and Warrants has been filed with the Securities and Exchange Commission (the "Commission") pursuant to Rule 415 under the Securities Act of 1933, as amended (the "Securities Act"). The Company meets the requirements for use of Form S-3 under the Securities Act and the rules and regulations of the Commission thereunder (the "Rules and Regulations"). The Initial Registration Statement and any post-effective amendment thereto, each in the form heretofore made available to you, and, excluding exhibits thereto, to you for each of the other Placement Agents, have been declared effective by the Commission. The proposed offering of the Preferred Stock, Stock and Warrants may be made pursuant to General Instruction I.B.1. of Form S-3. Other than (i) a registration statement, if any, increasing the size of the offering filed pursuant to Rule 462(b) under the Securities Act and the Rules and Regulations (a "Rule 462(b) Registration Statement") and (ii) the Prospectus (as defined below) contemplated by this Agreement to be filed pursuant to Rule 424(b) of the Rules and Regulations in accordance with Section 4(a) hereof and (iii) any Issuer Free Writing Prospectus (as defined below), no other document with respect to the offer and sale of the Preferred Stock, Stock and Warrants has heretofore been filed with the Commission. No stop order suspending the effectiveness of the Initial Registration Statement, any post-effective amendment thereto or the Rule 462(b) Registration Statement, if any, has been issued and no proceeding for that purpose or pursuant to Section 8A of the Securities Act has been initiated or threatened by the Commission (any preliminary prospectus included in the Initial Registration Statement or filed with the Commission pursuant to Rule 424(a) of the Rules and Regulations is hereinafter called a "Preliminary Prospectus"). The various parts of the Initial Registration Statement and the Rule 462(b) Registration Statement, if any, in each case including all exhibits thereto and including (i) the information contained in the Prospectus filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations and deemed by virtue of Rules 430A, 430B and 430C under the Securities Act to be part of the Initial Registration Statement at the time it became effective and (ii) the documents incorporated by reference in the Rule 462(b) Registration Statement at the time the Rule 462(b) Registration Statement became effective, are hereinafter collectively called the "Registration Statements." The base prospectus included in the Initial Registration Statement at the time of effectiveness thereof (the "Base Prospectus"), as supplemented by the final prospectus supplement relating to the offer and sale of the Preferred Stock, Stock and Warrants, in the form filed pursuant to and within the time limits described in Rule 424(b) under the Rules and Regulations, is hereinafter called the "Prospectus."

Any reference herein to any Registration Statement, Base Prospectus, Preliminary Prospectus or the Prospectus shall be deemed to refer to and include the documents incorporated by reference therein. Any reference to any amendment or supplement to any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any documents filed after the date of such Preliminary Prospectus or the Prospectus under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and incorporated by reference in such Preliminary Prospectus or Prospectus, as the case may be. Any reference to any amendment to the Registration Statements shall be deemed to refer to and include any annual report of the Company filed pursuant to Section 13(a) or 15(d) of the Exchange Act after the date of this Agreement that is incorporated by reference in the Registration Statements.

(b) As of the Applicable Time (as defined below) and as of the Closing Date, neither (i) the General Use Free Writing Prospectus(es) (as defined below) issued at or prior to the Applicable Time, the Pricing Prospectus (as defined below) and the information included on Schedule II hereto, if any, all considered together (collectively, the “General Disclosure Package”), (ii) any individual Limited Use Free Writing Prospectus (as defined below), nor (iii) any bona fide electronic road show (as defined in Rule 433(h)(5) of the Rules and Regulations that has been made available without restriction to any person), when considered together with the General Disclosure Package, included or will include any untrue statement of a material fact or omitted or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided, however*, that the Company makes no representations or warranties as to information contained in or omitted from the Pricing Prospectus, in reliance upon, and in conformity with, written information furnished to the Company through the Representative by or on behalf of any Placement Agent specifically for inclusion therein, which information the parties hereto agree is limited to the Placement Agent’s Information as defined in Section 17. As used in this paragraph (b) and elsewhere in this Agreement:

“Applicable Time” means 9:00 a.m., New York time, on the date of this Agreement or such other time as agreed to by the Company and the Representative.

“Pricing Prospectus” means the Preliminary Prospectus, if any, and the Base Prospectus, each as amended and supplemented immediately prior to the Applicable Time, including any document incorporated by reference therein and any prospectus supplement deemed to be a part thereof.

“Issuer Free Writing Prospectus” means any “issuer free writing prospectus,” as defined in Rule 433 of the Rules and Regulations relating to the Preferred Stock, Stock and Warrants in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company’s records pursuant to Rule 433(g) of the Rules and Regulations.

“General Use Free Writing Prospectus” means any Issuer Free Writing Prospectus that is identified on Schedule I to this Agreement.

“Limited Use Free Writing Prospectuses” means any Issuer Free Writing Prospectus that is not a General Use Free Writing Prospectus.

(c) No order preventing or suspending the use of any Preliminary Prospectus, any Issuer Free Writing Prospectus or the Prospectus relating to the proposed offering of the Preferred Stock, Stock and Warrants has been issued by the Commission, and no proceeding for that purpose or pursuant to Section 8A of the Securities Act has been instituted or, to the Company's Knowledge, threatened by the Commission, and each Preliminary Prospectus, at the time of filing thereof, conformed in all material respects to the requirements of the Securities Act and the Rules and Regulations, and did not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided, however*, that the Company makes no representations or warranties as to information contained in or omitted from any Preliminary Prospectus, in reliance upon, and in conformity with, written information furnished to the Company through the Representative by or on behalf of any Placement Agent specifically for inclusion therein, which information the parties hereto agree is limited to the Placement Agent's Information as defined in Section 17.

(d) At the respective times the Registration Statements and any amendments thereto became or become effective, at the date of this Agreement and at the Closing Date, each Registration Statement and any amendments thereto conformed and will conform in all material respects to the requirements of the Securities Act and the Rules and Regulations and did not and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading; and the Prospectus and any amendments or supplements thereto, at the time the Prospectus or any amendment or supplement thereto was issued and at the Closing Date, conformed and will conform in all material respects to the requirements of the Securities Act and the Rules and Regulations and did not and will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; *provided, however*, that the foregoing representations and warranties in this paragraph (d) shall not apply to information contained in or omitted from the Registration Statements or the Prospectus, or any amendment or supplement thereto, in reliance upon, and in conformity with, written information furnished to the Company through the Representative by or on behalf of any Placement Agent specifically for inclusion therein, which information the parties hereto agree is limited to the Placement Agent's Information (as defined in Section 17).

(e) Each Issuer Free Writing Prospectus, as of its issue date and at all subsequent times through the completion of the public offer and sale of the Preferred Stock, Stock and Warrants or until any earlier date that the Company notified or notifies the Representative as described in Section 4(f), did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement, Pricing Prospectus or the Prospectus, including any document incorporated by reference therein and any prospectus supplement deemed to be a part thereof that has not been superseded or modified, or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances prevailing at the subsequent time, not misleading.

(f) The documents incorporated by reference in the Prospectus, when they were filed with the Commission conformed in all material respects to the requirements of the Securities Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder and none of such documents contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and any further documents so filed and incorporated by reference in the Prospectus, when such documents are filed with Commission will conform in all material respects to the requirements of the Securities Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(g) The Company has not, directly or indirectly, distributed and will not distribute any offering material in connection with the offering and sale of the Preferred Stock, Stock and Warrants other than any Preliminary Prospectus, the General Disclosure Package, the Prospectus and other materials, if any, permitted under the Securities Act and consistent with Section 4(b) below. The Company will file with the Commission all Issuer Free Writing Prospectuses (other than a “road show,” as described in Rule 433(d)(8) of the Rules and Regulations) in the time and manner required under Rules 163(b)(2) and 433(d) of the Rules and Regulations.

(h) At the time of filing the Initial Registration Statement, any 462(b) Registration Statement and any post-effective amendments thereto, and at the date hereof, the Company was not, and the Company currently is not, an “ineligible issuer,” as defined in Rule 405 of the Rules and Regulations.

(i) The Company and each of its subsidiaries (as defined in Section 15), including the PRC Entities (as defined below), have been duly organized and are validly existing as corporations or other legal entities in good standing (or the foreign equivalent thereof) under the laws of their respective jurisdictions of organization. The Company and each of its subsidiaries are duly qualified to do business and are in good standing as foreign corporations or other legal entities in each jurisdiction in which their respective ownership or lease of property or the conduct of their respective businesses requires such qualification and have all power and authority (corporate or other) necessary to own or hold their respective properties and to conduct the businesses in which they are engaged, except where the failure to so qualify or have such power or authority would not (i) have, singularly or in the aggregate, a material adverse effect on the condition (financial or otherwise), results of operations, assets, business or prospects of the Company and its subsidiaries taken as a whole, or (ii) impair in any material respect the ability of the Company to perform its obligations under this Agreement or to consummate any transactions contemplated by this Agreement, the General Disclosure Package or the Prospectus (any such effect as described in clauses (i) or (ii), a “Material Adverse Effect”). The Company owns or controls, directly or indirectly, only the following corporations, partnerships, limited liability partnerships, limited liability companies, associations or other entities: NeoStem (China), Inc., China Biopharmaceutical Holdings, Inc., Stem Cell Technologies, Inc., NeoStem Therapies, Inc., Qingdao Niao Bio-Technology Ltd., Beijing Ruijieao Bio-Technology Ltd. and Suzhou Erye Pharmaceuticals Ltd.

(j) This Agreement and the Subscription Agreement have been duly authorized, executed and delivered by the Company.

(k) The Preferred Stock to be issued and sold by the Company to the Purchasers has been duly and validly authorized and, when issued and delivered against payment therefor as provided in the Subscription Agreement, will be duly and validly issued, fully paid and nonassessable and free of any preemptive or similar rights and will conform in all material respects to the description thereof contained in the General Disclosure Package and the Prospectus. The Stock to be issued and sold by the Company to the Purchasers has been duly and validly authorized and, when issued and delivered against payment therefor as provided in the Subscription Agreement, will be duly and validly issued, fully paid and nonassessable and free of any preemptive or similar rights and will conform in all material respects to the description thereof contained in the General Disclosure Package and the Prospectus. The Warrants have been duly authorized, and when executed and delivered by the Company, will constitute valid and binding obligations of the Company enforceable in accordance with their terms, except that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, affecting creditors' rights generally. The Conversion Shares have been duly authorized and reserved for issuance pursuant to the terms of the Preferred Stock, and when issued by the Company upon valid conversion of the Preferred Stock and payment of the exercise price, will be duly and validly issued, fully paid and nonassessable and free of any preemptive or similar rights and will conform in all material respects to the description thereof contained in the General Disclosure Package and the Prospectus. The Warrant Shares have been duly authorized and reserved for issuance pursuant to the terms of the Warrants, and when issued by the Company upon valid exercise of the Warrants and payment of the exercise price, will be duly and validly issued, fully paid and nonassessable and free of any preemptive or similar rights and will conform in all material respects to the description thereof contained in the General Disclosure Package and the Prospectus.

(l) The Company has an authorized capitalization as set forth under the heading “Description of Capital Stock” in the Pricing Prospectus, and all of the issued shares of capital stock of the Company have been duly and validly authorized and issued, are fully paid and non-assessable, have been issued in compliance with federal and state securities laws, and conform to the description thereof contained in the General Disclosure Package and the Prospectus. As of the date of this Agreement, there were 57,613,794 shares of Common Stock issued and outstanding and 10,000 shares of preferred stock of the Company issued and outstanding and 30,940,242 shares of Common Stock were issuable upon the exercise of all options, warrants and convertible securities outstanding as of such date. All of the Company’s options, warrants and other rights to purchase or exchange any securities for shares of the Company’s capital stock have been duly authorized and validly issued and were issued in compliance with federal and state securities laws. None of the outstanding shares of Common Stock was issued in violation of any preemptive rights, rights of first refusal or other similar rights to subscribe for or purchase securities of the Company. There are no authorized or outstanding shares of capital stock, options, warrants, preemptive rights, rights of first refusal or other rights to purchase, or equity or debt securities convertible into or exchangeable or exercisable for, any capital stock of the Company or any of its subsidiaries other than those described above or accurately described in the General Disclosure Package. The description of the Company’s stock option, stock bonus and other stock plans or arrangements, and the options or other rights granted thereunder, as described in the General Disclosure Package and the Prospectus, accurately and fairly present the information required to be shown with respect to such plans, arrangements, options and rights.

(m) All the outstanding shares of capital stock (if any) of each subsidiary of the Company have been duly authorized and validly issued, are fully paid and nonassessable and, except to the extent set forth in the General Disclosure Package or the Prospectus, are owned by the Company directly or indirectly through one or more wholly-owned subsidiaries, free and clear of any claim, lien, encumbrance, security interest, restriction upon voting or transfer or any other claim of any third party.

(n) The execution, delivery and performance of this Agreement by the Company, the issue and sale of the Preferred Stock, Stock and Warrants by the Company and the consummation of the transactions contemplated hereby will not (with or without notice or lapse of time or both) (i) conflict with or result in a breach or violation of any of the terms or provisions of, constitute a default or a Debt Repayment Triggering Event (as defined below) under, give rise to any right of termination or other right or the cancellation or acceleration of any right or obligation or loss of a benefit under, or give rise to the creation or imposition of any lien, encumbrance, security interest, claim or charge upon any property or assets of the Company or any subsidiary pursuant to, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, (ii) result in any violation of the provisions of the charter or by-laws (or analogous governing instruments, as applicable) of the Company or any of its subsidiaries or (iii) result in any violation of any law, statute, rule, regulation, judgment, order or decree of any court or governmental agency or body, domestic or foreign, having jurisdiction over the Company or any of its subsidiaries or any of their properties or assets; except in the cases of clauses (i) and (iii), to the extent that any such conflict, breach, violation or default would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. A “Debt Repayment Triggering Event” means any event or condition that gives, or with the giving of notice or lapse of time would give the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder’s behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company of any of its subsidiaries.

(o) Except for the registration of the Preferred Stock, Stock and Warrants under the Securities Act, Exchange Act and applicable state securities laws, the Financial Industry Regulatory Authority (“FINRA”) and the NYSE Amex in connection with the purchase and distribution of the Preferred Stock, Stock and Warrants by the Purchasers and the listing of the Stock, Conversion Shares and Warrant Shares on the NYSE Amex, no consent, approval, authorization or order of, or filing, qualification or registration (each an “Authorization”) with, any court, governmental or non-governmental agency or body, foreign or domestic having jurisdiction over the Company or any of its properties or assets which has not been made, obtained or taken and is not in full force and effect, is required for the execution, delivery and performance of this Agreement by the Company, the offer or sale of the Preferred Stock, Stock and Warrants or the consummation of the transactions contemplated hereby. All corporate approvals (including those of stockholders) necessary for the Company to consummate the transactions contemplated by this Agreement have been obtained and are in effect.

(p) Each of (i) Holtz Rubenstein Reminick LLP, who have audited certain financial statements included or incorporated by reference in the Registration Statements, the General Disclosure Package and the Prospectus, (ii) Deloitte & Touche LLP, and (iii) EisnerAmper LLP, who have audited certain financial statements included or incorporated by reference in the Registration Statements, the General Disclosure Package and the Prospectus, is an independent registered public accounting firm with respect to the entity to which such accounting firm has provided an audit within the meaning of Article 2-01 of Regulation S-X and the Public Company Accounting Oversight Board (United States) (the “PCAOB”).

(q) The financial statements, together with the related notes and schedules, included or incorporated by reference in the General Disclosure Package, the Prospectus and in each Registration Statement fairly present the financial position and the results of operations and changes in financial position of the Company and its consolidated subsidiaries and other consolidated entities at the respective dates or for the respective periods therein specified. Such statements and related notes and schedules have been prepared in accordance with the generally accepted accounting principles in the United States (“GAAP”) applied on a consistent basis throughout the periods involved except as may be set forth in the related notes included or incorporated by reference in the General Disclosure Package. The financial statements, together with the related notes and schedules, included or incorporated by reference in the General Disclosure Package and the Prospectus comply as to form in all material respects with Regulation S-X. No other financial statements or supporting schedules or exhibits are required by Regulation S-X to be described, included or incorporated by reference in the Registration Statements, the General Disclosure Package or the Prospectus. The pro forma financial statements and other pro forma financial information included or incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus present fairly the information shown therein, have been prepared in accordance with the Commission’s rules and guidelines with respect to pro forma financial statements, have been properly compiled on the pro forma bases described therein, and, in the opinion of the Company, the assumptions used in the preparation thereof are reasonable and the adjustments used therein are appropriate to give effect to the transactions or circumstances referred to therein. The summary and selected financial data included or incorporated by reference in the General Disclosure Package, the Prospectus and each Registration Statement fairly present the information shown therein as at the respective dates and for the respective periods specified and are derived from the consolidated financial statements set forth or incorporated by reference in the Registration Statement, the Pricing Prospectus and the Prospectus and other financial information. All information contained in the Registration Statement, the General Disclosure Package and the Prospectus regarding “non-GAAP financial measures” (as defined in Regulation G) complies with Regulation G and Item 10 of Regulations S-K, to the extent applicable.

(r) Neither the Company nor any of its subsidiaries has sustained, since the date of the latest audited financial statements included or incorporated by reference in the General Disclosure Package, any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the General Disclosure Package; and, since such date, there has not been any change in the capital stock or long-term debt of the Company or any of its subsidiaries, or any material adverse changes, or any development involving a prospective material adverse change, in or affecting the business, assets, general affairs, management, financial position, prospects, stockholders' equity or results of operations of the Company and its subsidiaries taken as a whole, otherwise than as set forth or contemplated in the General Disclosure Package.

(s) Except as forth in the General Disclosure Package, there is no legal or governmental proceeding to which the Company or any of its subsidiaries is a party or of which any property or assets of the Company or any of its subsidiaries is the subject, including any proceeding before the United States Food and Drug Administration of the U.S. Department of Health and Human Services ("FDA") or comparable federal, state, local or foreign governmental bodies, including but not limited to the State Food and Drug Administration of China (it being understood that the interaction between the Company and the FDA and such comparable governmental bodies relating to the clinical development and product approval process shall not be deemed proceedings for purposes of this representation), which is required to be described in the Registration Statement, the General Disclosure Package or the Prospectus or a document incorporated by reference therein and is not described therein, or which, singularly or in the aggregate, if determined adversely to the Company or any of its subsidiaries, could reasonably be expected to have a Material Adverse Effect; and to the best of the Company's knowledge ("Knowledge"), no such proceedings are threatened or contemplated by governmental authorities or threatened by others. The Company is in compliance with all applicable federal, state, local and foreign laws, regulations, orders and decrees governing its business as prescribed by the FDA, or any other federal, state or foreign agencies or bodies engaged in the regulation of pharmaceuticals or biohazardous substances or materials, except where noncompliance would not, singly or in the aggregate, have a Material Adverse Effect. All preclinical and clinical studies conducted by or on behalf of the Company to support approval for commercialization of the Company's products have been conducted by the Company, or to the Company's knowledge by third parties, in compliance with all applicable federal, state or foreign laws, rules, orders and regulations, except for such failure or failures to be in compliance as could not reasonably be expected to have, singly or in the aggregate, a Material Adverse Effect.

(t) Neither the Company nor any of its subsidiaries (i) is in violation of its charter or by-laws (or analogous governing instrument, as applicable), (ii) is in default in any respect, and no event has occurred which, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it is bound or to which any of its property or assets is subject (including, without limitation, those administered by the FDA or by any foreign, federal, state or local governmental or regulatory authority performing functions similar to those performed by the FDA) or (iii) is in violation in any respect of any law, ordinance, governmental rule, regulation or court order, decree or judgment to which it or its property or assets may be subject except, in the case of clauses (ii) and (iii) of this paragraph (t), for any violations or defaults which, singularly or in the aggregate, would not have a Material Adverse Effect.

(u) The Company possess all licenses, certificates, authorizations and permits issued by, and have made all declarations and filings with, the appropriate local, state, federal or foreign regulatory agencies or bodies (including, without limitation, those administered by the FDA or by any foreign, federal, state or local governmental or regulatory authority performing functions similar to those performed by the FDA) which are necessary or desirable for the ownership of their respective properties or the conduct of their respective businesses as described in the General Disclosure Package and the Prospectus (collectively, the "Governmental Permits"), except where any failures to possess or make the same, singularly or in the aggregate, would not have a Material Adverse Effect. The Company is in compliance with all such Governmental Permits and all such Governmental Permits are valid and in full force and effect, except, in either case, where the validity or failure to be in full force and effect would not, singularly or in the aggregate, have a Material Adverse Effect. The Company has not received notification of any revocation, modification, suspension, termination or invalidation (or proceedings related thereto) of any such Governmental Permit and to the Knowledge of the Company, no event has occurred that allows or results in, or after notice or lapse of time or both would allow or result in, revocation, modification, suspension, termination or invalidation (or proceedings related thereto) of any such Governmental Permit. The studies, tests and preclinical or clinical trials conducted by or on behalf of the Company that are described in the General Disclosure Package and the Prospectus (the "Company Studies and Trials") were and, if still pending, are being, conducted in all material respects in accordance with experimental protocols, procedures and controls pursuant to, where applicable, accepted professional scientific standards; the descriptions of the results of the Company Studies and Trials contained in the General Disclosure Package and Prospectus are accurate in all material respects; and the Company has not received any notices or correspondence from the FDA or any foreign, state or local governmental body exercising comparable authority requiring the termination, suspension or material modification of any Company Studies or Trials which termination, suspension or material modification would reasonably be expected to have a Material Adverse Effect.

(v) Neither the Company nor any of its subsidiaries is, and after giving effect to the offering of the Preferred Stock, Stock and Warrants and the application of the proceeds thereof as described in the General Disclosure Package and the Prospectus, will not become an “investment company” within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission thereunder.

(w) Neither the Company nor, to the Company's Knowledge, any of its officers, directors or affiliates has taken or will take, directly or indirectly, any action designed or intended to stabilize or manipulate the price of any security of the Company, or which caused or resulted in, or which might in the future reasonably be expected to cause or result in, stabilization or manipulation of the price of any security of the Company.

(x) The Company and its subsidiaries own or possess the valid right to use all (i) valid and enforceable patents, patent applications, trademarks, trademark registrations, service marks, service mark registrations, Internet domain name registrations, copyrights, copyright registrations, licenses, trade secret rights (“Intellectual Property Rights”) and (ii) inventions, software, works of authorships, trade marks, service marks, trade names, databases, formulae, know how, Internet domain names and other intellectual property (including trade secrets and other unpatented and/or unpatentable proprietary confidential information, systems, or procedures) (collectively, “Intellectual Property Assets”) necessary to conduct their respective businesses as currently conducted, and as proposed to be conducted and described in the General Disclosure Package and the Prospectus. The Company and its subsidiaries have not received any opinion from their legal counsel concluding that any activities of their respective businesses infringe, misappropriate, or otherwise violate, valid and enforceable Intellectual Property Rights of any other person, and, except as set forth in the General Disclosure Package and the Prospectus, have not received written notice of any challenge, which is to their Knowledge still pending, by any other person to the rights of the Company and its subsidiaries with respect to any Intellectual Property Rights or Intellectual Property Assets owned or used by the Company or its subsidiaries. To the Knowledge of the Company, except as described in the Registration Statement, the General Disclosure Package and the Prospectus, the Company and its subsidiaries’ respective businesses as now conducted do not give rise to any infringement of, any misappropriation of, or other violation of, any valid and enforceable Intellectual Property Rights of any other person. All licenses for the use of the Intellectual Property Rights described in the General Disclosure Package and the Prospectus are valid, binding upon, and enforceable by or against the parties thereto in accordance to its terms. The Company has complied in all material respects with, and is not in breach nor has received any asserted or threatened claim of breach of any Intellectual Property license that has not been resolved, and to the Knowledge of the Company there has been no unresolved breach or anticipated breach by any other person to any Intellectual Property license, except where such breach, singularly or in the aggregate, would not have a Material Adverse Effect. Except as described in the General Disclosure Package, to the Knowledge of the Company there are no unresolved claims against the Company alleging the infringement by the Company of any patent, trademark, service mark, trade name, copyright, trade secret, license in or other intellectual property right or franchise right of any person, except to the extent that any such claim does not have a Material Adverse Effect. The Company has taken reasonable steps to protect, maintain and safeguard its Intellectual Property Rights, including the execution of appropriate nondisclosure and confidentiality agreements. The consummation of the transactions contemplated by this Agreement will not result in the loss or impairment of or payment of any additional amounts with respect to, nor require the consent of any other person in respect of, the Company's right to own, use, or hold for use any of the Intellectual Property Rights as owned, used or held for use in the conduct of the business as currently conducted. The Company has taken the necessary actions to obtain ownership of all works of authorship and inventions made by its employees, consultants and contractors during the time they were employed by or under contract with the Company and which relate to the Company's business. All key employees have signed confidentiality and invention assignment agreements with the Company.

(y) The Company and each of its subsidiaries have good and marketable title in fee simple to, or have valid rights to lease or otherwise use, all items of real or personal property which are material to the business of the Company and its subsidiaries taken as a whole, in each case free and clear of all liens, encumbrances, security interests, claims and defects that do not, singularly or in the aggregate, materially affect the value of such property and do not interfere with the use made and proposed to be made of such property by the Company or any of its subsidiaries; and all of the leases and subleases material to the business of the Company and its subsidiaries, considered as one enterprise, and under which the Company or any of its subsidiaries holds properties described in the General Disclosure Package and the Prospectus, are in full force and effect, and neither the Company nor any subsidiary has any notice of any material claim of any sort that has been asserted by anyone adverse to the rights of the Company or any subsidiary under any of the leases or subleases mentioned above, or affecting or questioning the rights of the Company or such subsidiary to the continued possession of the leased or subleased premises under any such lease or sublease.

(z) There is (A) no significant unfair labor practice complaint pending against the Company, or any of its subsidiaries, nor to the Knowledge of the Company, threatened against it or any of its subsidiaries, before the National Labor Relations Board, any state or local labor relation board or any foreign labor relations board, and no significant grievance or significant arbitration proceeding arising out of or under any collective bargaining agreement is so pending against the Company or any of its subsidiaries, or, to the Knowledge of the Company, threatened against it and (B) no labor disturbance by the employees of the Company or any of its subsidiaries exists or, to the Company's Knowledge, is imminent, and the Company is not aware of any existing or imminent labor disturbance by the employees of any of its or its subsidiaries principal suppliers, manufacturers, customers or contractors, that could reasonably be expected, singularly or in the aggregate, to have a Material Adverse Effect. The Company is not aware that any key employee or significant group of employees of the Company or any subsidiary plans to terminate employment with the Company or any such subsidiary.

(aa) No “prohibited transaction” (as defined in Section 406 of the Employee Retirement Income Security Act of 1974, as amended, including the regulations and published interpretations thereunder (“ERISA”), or Section 4975 of the Internal Revenue Code of 1986, as amended from time to time (the “Code”)) or “accumulated funding deficiency” (as defined in Section 302 of ERISA) or any of the events set forth in Section 4043(b) of ERISA (other than events with respect to which the thirty (30)-day notice requirement under Section 4043 of ERISA has been waived) has occurred or could reasonably be expected to occur with respect to any employee benefit plan of the Company or any of its subsidiaries which could, singularly or in the aggregate, have a Material Adverse Effect. Each employee benefit plan of the Company or any of its subsidiaries is in compliance in all material respects with applicable law, including ERISA and the Code. The Company and its subsidiaries have not incurred and could not reasonably be expected to incur liability under Title IV of ERISA with respect to the termination of, or withdrawal from, any pension plan (as defined in ERISA). Each pension plan for which the Company or any of its subsidiaries would have any liability that is intended to be qualified under Section 401(a) of the Code is so qualified, and nothing has occurred, whether by action or by failure to act, which could, singularly or in the aggregate, cause the loss of such qualification.

(bb) The Company and its subsidiaries are in compliance with all foreign, federal, state and local rules, laws and regulations relating to the use, treatment, storage and disposal of hazardous or toxic substances or waste and protection of health and safety or the environment which are applicable to their businesses (“Environmental Laws”), except where such non-compliance with Environmental Laws would not, individually or in the aggregate, result in a Material Adverse Effect. There has been no storage, generation, transportation, handling, treatment, disposal, discharge, emission, or other release of any kind of toxic or other wastes or other hazardous substances by, due to, or caused by the Company or any of its subsidiaries (or, to the Company’s Knowledge, any other entity for whose acts or omissions the Company or any of its subsidiaries is or may otherwise be liable) upon any of the property now or previously owned or leased by the Company or any of its subsidiaries, or upon any other property, in violation of any law, statute, ordinance, rule, regulation, order, judgment, decree or permit or which would, under any law, statute, ordinance, rule (including rule of common law), regulation, order, judgment, decree or permit, give rise to any liability, except where such non-compliance with such laws, failure to receive required permits, licenses or other approvals or failure to comply with the terms of such permits, licenses or approvals would not, individually or in the aggregate, result in a Material Adverse Effect; and there has been no disposal, discharge, emission or other release of any kind onto such property or into the environment surrounding such property of any toxic or other wastes or other hazardous substances with respect to which the Company or any of its subsidiaries has knowledge. In the ordinary course of business, the Company and its subsidiaries conduct periodic reviews of the effect of Environmental Laws on their business and assets, in the course of which they identify and evaluate associated costs and liabilities (including, without limitation, any capital or operating expenditures required for clean-up, closure of properties or compliance with Environmental Laws or Governmental Permits issued thereunder, any related constraints on operating activities and any potential liabilities to third parties). On the basis of such reviews, the Company has reasonably concluded that such associated costs and liabilities would not have, singularly or in the aggregate, a Material Adverse Effect.

(cc) The Company and its subsidiaries (other than the PRC Entities) each (i) have timely filed all necessary federal, state, local and foreign tax returns, and all such returns were true, complete and correct, (ii) have paid all federal, state, local and foreign taxes, assessments, governmental or other charges due and payable for which it is liable, including, without limitation, all sales and use taxes and all taxes which the Company or any of its subsidiaries is obligated to withhold from amounts owing to employees, creditors and third parties, and (iii) do not have any tax deficiency or claims outstanding or assessed or, to its Knowledge, proposed against any of them, except those, in each of the cases described in clauses (i), (ii) and (iii) of this paragraph (cc), that would not, singularly or in the aggregate, have a Material Adverse Effect. The Company and its subsidiaries have not engaged in any transaction which is a corporate tax shelter or which could be characterized as such by the Internal Revenue Service or any other taxing authority. The accruals and reserves on the books and records of the Company and its subsidiaries in respect of tax liabilities for any taxable period not yet finally determined are adequate to meet any assessments and related liabilities for any such period, and since December 31, 2009 the Company and its subsidiaries have not incurred any liability for taxes other than in the ordinary course.

(dd) The Company and each of its subsidiaries carry, or are covered by, insurance in such amounts and covering such risks as is customary for companies engaged in similar businesses in similar industries. Neither the Company nor any of its subsidiaries has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a Material Adverse Effect. All policies of insurance owned by the Company or any of its subsidiaries are, to the Company's Knowledge, in full force and effect and the Company and its subsidiaries are in compliance with the terms of such policies. Neither the Company nor any of its subsidiaries has received written notice from any insurer, agent of such insurer or the broker of the Company or any of its subsidiaries that any material capital improvements or any other material expenditures (other than premium payments) are required or necessary to be made in order to continue such insurance. None of the Company or any of its subsidiaries insures risk of loss through any captive insurance, risk retention group, reciprocal group or by means of any fund or pool of assets specifically set aside for contingent liabilities other than as described in the General Disclosure Package.

(ee) The Company and, except as set forth in the General Disclosure Package and the Prospectus, each of its subsidiaries maintains a system of internal control over financial reporting (as such term is defined in Rule 13a-15 of the General Rules and Regulations under the Exchange Act (the "Exchange Act Rules")) that complies with the requirements of the Exchange Act and has been designed by the Company's principal executive officer and principal financial officer, or under their supervision, to provide reasonable assurances that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as described in the General Disclosure Package, since the end of the Company's most recent audited fiscal year, there has been (A) no material weakness in the Company's internal control over financial reporting (whether or not remediated) and (B) no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting. The Company's internal control over financial reporting is, or upon consummation of the offering of the Preferred Stock, Stock and Warrants will be, overseen by the Audit Committee of the Board of Directors of the Company (the "Audit Committee") in accordance with the Exchange Act Rules.

(ff) [Intentionally Omitted.]

(gg) The Company and each of its subsidiaries have made and keep books, records and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company and its subsidiaries in all material respects.

(hh) The Company maintains disclosure controls and procedures (as such is defined in Rule 13a-15 of the Exchange Act Rules) that comply with the requirements of the Exchange Act; such disclosure controls and procedures have been designed to ensure that information required to be disclosed by the Company is accumulated and communicated to the Company's management, including the Company's principal executive officer and principal financial officer by others within those entities, such disclosure controls and procedures are effective in all material respects to perform the functions for which they were established.

(ii) The minute books of the Company have been made available to the Placement Agents and counsel for the Placement Agents, and such books (i) contain or will contain as of the Closing Date a complete summary of all meetings and actions of the board of directors (including each board committee) and shareholders of the Company (or analogous governing bodies and interest holders, as applicable), since January 1, 2007 through the date of the latest meeting and action, and (ii) accurately in all material respects reflect all transactions referred to in such minutes.

(jj) There is no franchise agreement, lease, contract, or other agreement or document required by the Securities Act or by the Rules and Regulations to be described in the General Disclosure Package and in the Prospectus or a document incorporated by reference therein or to be filed as an exhibit to the Registration Statements or a document incorporated by reference therein which is not so described or filed therein as required; and all descriptions of any such franchise agreements, leases, contracts, or other agreements or documents contained in the General Disclosure Package and in the Prospectus or in a document incorporated by reference therein are accurate and complete descriptions of such documents in all material respects. Other than as described in the General Disclosure Package, no such franchise agreement, lease, contract or other agreement has been suspended or terminated for convenience or default by the Company or any of the other parties thereto, and neither the Company nor any of its subsidiaries has received notice of and the Company does not have Knowledge of any such pending or threatened suspension or termination except for such suspensions or terminations or pending or threatened suspensions or terminations that would not reasonably be expected to, singularly or in the aggregate, have a Material Adverse Effect.

(kk) No relationship, direct or indirect, exists between or among the Company on the one hand, and the directors, officers, stockholders (or analogous interest holders), customers or suppliers of the Company or any of its affiliates on the other hand, which is required to be described in the General Disclosure Package and the Prospectus or a document incorporated by reference therein and which is not so described.

(ll) Except as set forth in the General Disclosure Package and the Prospectus, no person or entity has the right to require registration of shares of Common Stock or other securities of the Company or any of its subsidiaries because of the filing or effectiveness of the Registration Statements or otherwise, except for persons and entities who have expressly waived such right in writing or who have been given timely and proper written notice and have failed to exercise such right within the time or times required under the terms and conditions of such right. There are no persons with registration rights or similar rights to have any securities registered by the Company or any of its subsidiaries under the Securities Act, except where the failure to so register would not be expected to, singularly or in the aggregate, have a Material Adverse Effect.

(mm) Neither the Company nor any of its subsidiaries own any “margin securities” as that term is defined in Regulation U of the Board of Governors of the Federal Reserve System (the “Federal Reserve Board”), and none of the proceeds of the sale of the Preferred Stock, Stock and Warrants will be used, directly or indirectly, for the purpose of purchasing or carrying any margin security, for the purpose of reducing or retiring any indebtedness which was originally incurred to purchase or carry any margin security or for any other purpose which might cause any of the Preferred Stock, Stock or Warrants to be considered a “purpose credit” within the meanings of Regulation T, U or X of the Federal Reserve Board.

(nn) Neither the Company nor any of its subsidiaries is a party to any contract, agreement or understanding with any person that would give rise to a valid claim against the Company or the Placement Agents for a brokerage commission, finder’s fee or like payment in connection with the offering and sale of the Preferred Stock, Stock and Warrants or any transaction contemplated by this Agreement, the Registration Statements, the General Disclosure Package or the Prospectus.

(oo) All grants of options were validly issued and properly approved by the board of directors of the Company (or a duly authorized committee thereof) in material compliance with all applicable laws and regulations and recorded in the Company’s financial statements in accordance with GAAP.

(pp) Except as described in the General Disclosure Package and the Prospectus, no subsidiary of the Company is currently prohibited, directly or indirectly, under any agreement or other instrument to which it is a party or is subject, from paying any dividends to the Company, from making any other distribution on such subsidiary’s capital stock, from repaying to the Company any loans or advances to such subsidiary from the Company or from transferring any of such subsidiary’s properties or assets to the Company or any other subsidiary of the Company.

(qq) Since the date as of which information is given in the General Disclosure Package and the Prospectus through the date hereof, and except as set forth in the Pricing Prospectus, neither the Company nor any of its subsidiaries has (i) issued or granted any securities other than options to purchase common stock pursuant to the Company's stock option plan or securities issued upon exercise of stock options in the ordinary course of business, (ii) incurred any material liability or obligation, direct or contingent, other than liabilities and obligations which were incurred in the ordinary course of business, (iii) entered into any material transaction other than in the ordinary course of business or (iv) declared or paid any dividend on its capital stock.

(rr) If applicable, all of the information provided to the Placement Agents or to counsel for the Placement Agents by the Company, its officers and directors and the holders of any securities (debt or equity) or options to acquire any securities of the Company in connection with letters, filings or other supplemental information provided to FINRA pursuant to FINRA Rule 5110 is true, correct and complete in all material respects.

(ss) The Company is not a Passive Foreign Investment Company ("PFIC") within the meaning of Section 1296 of the United States Internal Revenue Code of 1966, and the Company is not likely to become a PFIC.

(tt) No forward-looking statement (within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act) contained in either the General Disclosure Package or the Prospectus has been made or reaffirmed without a reasonable basis or has been disclosed other than in good faith.

(uu) The Company is subject to and in compliance in all material respects with the reporting requirements of Section 13 or Section 15(d) of the Exchange Act. The Common Stock is registered pursuant to Section 12(b) or 12(g) of the Exchange Act and is listed on the NYSE Amex (the "Exchange"), and except as described in the General Disclosure Package, the Company has taken no action designed to, or reasonably likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act or delisting the Common Stock from the Exchange, nor has the Company received any notification that the Commission or the Financial Industry Regulatory Authority ("FINRA") is contemplating terminating such registration or listing. The Company has filed a notification of the listing of the Stock, Conversion Shares and Warrant Shares on the NYSE Amex.

(vv) Except as disclosed in the Registration Statements, the General Disclosure Package and the Prospectus, the Company is in compliance in all material respects with all applicable provisions of the Sarbanes-Oxley Act of 2002 and all rules and regulations promulgated thereunder or implementing the provisions thereof (the "Sarbanes-Oxley Act") that are in effect.

(ww) The Company is in compliance in all material respects with all applicable corporate governance requirements set forth in the rules of the Exchange that are in effect.

(xx) Neither the Company nor any of its subsidiaries nor, to the Company's Knowledge, any employee or agent of the Company or any subsidiary, has (i) used any corporate funds for unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to foreign or domestic political parties or campaigns from corporate funds, (iii) violated any provision of the Foreign Corrupt Practices Act of 1977, as amended or (iv) made any other unlawful payment.

(yy) There are no transactions, arrangements or other relationships between and/or among the Company, any of its affiliates (as such term is defined in Rule 405 of the Rules and Regulations) and any unconsolidated entity, including, but not limited to, any structured finance, special purpose or limited purpose entity that could reasonably be expected to materially affect the Company's liquidity or the availability of or requirements for its capital resources required to be described in the General Disclosure Package and the Prospectus or a document incorporated by reference therein which have not been described as required.

(zz) There are no outstanding loans, advances (except normal advances for business expenses in the ordinary course of business) or guarantees of indebtedness by the Company or any of its subsidiaries to or for the benefit of any of the officers or directors of the Company, any of its subsidiaries or any of their respective family members, except as disclosed in the Registration Statements, the General Disclosure Package and the Prospectus. All transactions by the Company with office holders or control persons of the Company have been duly approved by the board of directors of the Company, or duly appointed committees or officers thereof, if and to the extent required under U.S. law.

(aaa) The statistical and market related data included in the Registration Statement, the General Disclosure Package and the Prospectus are based on or derived from sources that the Company believes to be reliable and accurate in all material respects, and such data agree in all material respects with the sources from which they are derived.

(bbb) The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the "Money Laundering Laws"), and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending, or to the Company's Knowledge, threatened.

(ccc) Neither the Company nor any of its subsidiaries nor, to the Company's Knowledge, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC"); and the Company will not directly or indirectly use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

(ddd) Neither the Company nor, to the Company's Knowledge, any of its affiliates (within the meaning of NASD Conduct Rule 2720(b)(1)(a)) directly or indirectly controls, is controlled by, or is under common control with, or is an associated person (within the meaning of Article I, Section 1(ee) of the By-laws of FINRA) of, any member firm of FINRA.

(eee) The Company conducts a substantial portion of its operations and generates substantially all of its revenue through (i) NeoStem (China), Inc., a wholly foreign-owned enterprise formed under the laws of the People's Republic of China (the "PRC") ("NeoStem China"), (ii) Qingdao Niao Bio-Technology Ltd., a company formed under the laws of the PRC ("Qingdao"), (iii) Beijing Ruijieao Bio-Technology Ltd., a company formed under the laws of the PRC ("Beijing") and together with Qingdao, the "PRC VIEs"), and (iv) Suzhou Erye Pharmaceuticals Ltd., a joint venture formed under the laws of the PRC (the "JV"). The NeoStem China, the PRC VIEs and the JV are collectively referred to hereinafter as the "PRC Entities."

(fff) Each PRC Entity has applied for and obtained all requisite business licenses, clearance and permits required under PRC law as necessary for the conduct of its businesses in all material respects, and each PRC Entity has complied in all material respects with all PRC Laws in connection with foreign exchange, including without limitation, carrying out all relevant filings, registrations and applications for relevant permits with the PRC State Administration of Foreign Exchange and any other relevant authorities, and all such permits are validly subsisting. Except as set forth on Schedule 2(fff), the registered capital of each PRC Entity has been fully paid up in accordance with the schedule of payment stipulated in its respective articles of association, approval document, certificate of approval and legal person business license (hereinafter referred to as the "Establishment Documents") and in compliance in all material respects with PRC laws and regulations, and there is no outstanding capital contribution commitment for any PRC Entity. The Establishment Documents of the PRC Entities have been duly approved in accordance with the laws of the PRC and are valid and enforceable. The business scope specified in the Establishment Documents of each PRC Entity complies in all material respects with the requirements of all relevant PRC laws and regulations. The outstanding equity interests of each PRC Entity is owned by the respective entities or individuals identified as the registered holders thereof in the Registration Statement, the General Disclosure Package and the Prospectus.

(ggg) Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, no consents, approvals, authorizations, orders, registrations, clearances, certificates, franchises, licenses, permits or qualifications of or with any PRC governmental agency are required for the Company's or its affiliates' or subsidiaries' contractual arrangements and agreements with the PRC VIEs and their registered equity holders (the "VIE Structure") or the execution, delivery and performance of such contractual arrangements and agreements (the "VIE Structuring Documents") except where the failure to obtain such consents, approvals, authorizations, orders, registrations, clearances, certificates, franchises, licenses, permits or qualifications would not, singularly or in the aggregate, have a Material Adverse Effect. None of the VIE Structuring Documents has been revoked and no such revocation is pending or, to the Company's Knowledge, threatened. Except as set forth in the General Disclosure Package and the Prospectus, each of the VIE Structuring Documents has been entered into prior to the date thereof in compliance in all material respects with all applicable laws and regulations and constitutes a valid and legally binding agreement, enforceable in accordance with its terms.

(hhh) Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, the VIE Structure and the execution, delivery and performance of the VIE Structuring Documents and the consummation of the transactions contemplated thereby did not and do not (i) conflict with, or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which any PRC Entity is a party or by which any PRC Entity is bound or by which any of the properties or assets of any PRC Entity is subject, (ii) violate or conflict with the Establishment Documents of any PRC Entity, or (iii) violate or conflict with any applicable laws, regulations, rules, orders, decrees, guidelines, notices or other legislation of the PRC, except, in the case of clauses (i) and (iii) of this paragraph (hhh), for any violations or defaults which, singularly or in the aggregate, would not have a Material Adverse Effect.

(iii) Except as set forth in the General Disclosure Package and the Prospectus, the VIE Structure complies, and immediately following the consummation of the offering and sale of the Preferred Stock, Stock and Warrants will comply, in all material respects with all applicable laws, regulations, rules, orders, decrees, guidelines, notices or other legislation of the PRC; the VIE Structure has not been challenged by any PRC governmental agency and there are no legal, arbitration, governmental or other proceedings (including, without limitation, governmental investigations or inquiries) pending before or, to the Company's knowledge, threatened or contemplated by any PRC governmental agency in respect of the VIE Structure; and the Company reasonably believes that after the consummation of the offering and sale of the Preferred Stock, Stock and Warrants, the VIE Structure will not be challenged by any PRC governmental agency.

(jjj) The Company possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the PRC VIEs.

(kkk) Except as set forth in the Registration Statement, the General Disclosure Package and the Prospectus, no PRC Entity is currently prohibited, directly or indirectly, from paying any dividends to the Company (or the Company's subsidiary that holds the outstanding equity interest of such PRC Entity), and no PRC VIE is currently prohibited, directly or indirectly, from paying any of its obligations set forth in the VIE Structuring Documents. No PRC Entity is prohibited, directly or indirectly, from making any other distribution on such PRC Entity's equity capital, from repaying to the Company any loans or advances to such PRC Entity from the Company or any of the Company's subsidiaries.

(lll) None of the PRC Entities nor any of their properties, assets or revenues are entitled to any right of immunity on the grounds of sovereignty from any legal action, suit or proceeding, from set-off or counterclaim, from the jurisdiction of any court, from services of process, from attachment prior to or in aid of execution of judgment, or from any other legal process or proceeding for the giving of any relief or for the enforcement of any judgment.

(mmm) In connection with the offering contemplated by this Agreement, it is not necessary that this Agreement, the Registration Statement, the General Disclosure Package, the Prospectus or any other document be filed or recorded with any governmental agency, court or other authority in the PRC.

(nnn) No transaction, stamp, capital or other issuance, registration, transaction, transfer or withholding taxes or duties are payable in the PRC by or on behalf of the Placement Agents to any PRC taxing authority in connection with (i) the issuance, sale and delivery of the Preferred Stock, Stock and Warrants by the Company and the delivery of the Preferred Stock, Stock and Warrants to or for the account of the Placement Agents, (ii) the purchase from the Company and the initial sale and delivery by the Placement Agents of the Preferred Stock, Stock and Warrants to purchasers thereof, or (iii) the execution and delivery of this Agreement.

(ooo) Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, the Company has taken all steps reasonably necessary to comply with any applicable rules and regulations of the PRC State Administration of Foreign Exchange of the PRC (the “SAFE Rules and Regulations”).

(ppp) The Company is aware of, and has been advised as to, the content of the Rules on Mergers and Acquisitions of Domestic Enterprises by Foreign Investors jointly promulgated on August 8, 2006 by the PRC Ministry of Commerce, the PRC State Assets Supervision and Administration Commission, the PRC State Administration of Taxation, the PRC State Administration of Industry and Commerce, the China Securities Regulatory Commission (“CSRC”) and the PRC State Administration of Foreign Exchange of the PRC (the “M&A Rules”), in particular the relevant provisions thereof that purport to require offshore special purpose vehicles controlled directly or indirectly by PRC-incorporated companies or PRC residents and established for the purpose of obtaining a stock exchange listing outside of the PRC to obtain the approval of the CSRC prior to the listing and trading of their securities on any stock exchange located outside of the PRC. The Company has received legal advice specifically with respect to the M&A Rules from its PRC counsel and the Company understands such legal advice. In addition, the Company has communicated such legal advice in full to each of its directors that signed the Registration Statement and each such director has confirmed that he or she understands such legal advice.

(qqq) The issuance and sale of the Preferred Stock, Stock and Warrants, the listing and trading of the Stock, Conversion Shares and Warrant Shares on NYSE Amex and the consummation of the transactions contemplated by this Agreement, the Registration Statement, the General Disclosure Package and the Prospectus are not and will not be, as of the date hereof and on the Closing Date, affected by the M&A Rules or any official clarifications, guidance, interpretations or implementation rules in connection with or related to the M&A Rules, including the guidance and notices issued by the CSRC on September 8 and September 21, 2006 (together with the M&A Rules, the “M&A Rules and Related Clarifications”).

(rrr) The Company has taken all necessary steps to ensure compliance by each of its stockholders, option holders, directors, officers and employees that is, or is directly or indirectly owned or controlled by, a PRC resident or citizen with any applicable rules and regulations of the relevant PRC government agencies (including but not limited to the PRC Ministry of Commerce, the PRC National Development and Reform Commission and the PRC State Administration of Foreign Exchange) relating to overseas investment by PRC residents and citizens (the “PRC Overseas Investment and Listing Regulations”), including, requesting each stockholder, option holder, director, officer, employee and participant that is, or is directly or indirectly owned or controlled by, a PRC resident or citizen to complete any registration and other procedures required under applicable PRC Overseas Investment and Listing Regulations.

(sss) As of the date hereof, the M&A Rules and Related Clarifications do not require the Company to obtain the approval of the CSRC prior to the issuance and sale of the Preferred Stock, Stock and Warrants, the listing and trading of the Stock, Conversion Shares and Warrant Shares on the NYSE Amex, or the consummation of the transactions contemplated by this Agreement, the Registration Statement, the General Disclosure Package or the Prospectus.

(ttt) Each of the PRC Entities is in compliance with all requirements under all applicable PRC laws and regulations to qualify in all material respects for their exemptions from enterprise income tax or other income tax benefits (the “Tax Benefits”) as described in the Registration Statement, the General Disclosure Package and the Prospectus, and the actual operations and business activities of each such PRC Entity are sufficient to meet the qualifications for the Tax Benefits. No submissions made to any PRC government authority in connection with obtaining the Tax Benefits contained any misstatement or omission that would have affected the granting of the Tax Benefits. No PRC Entity has received notice of any deficiency in its respective applications for the Tax Benefits, and the Company is not aware of any reason why any such PRC Entity might not qualify for, or be in compliance with the requirements for, the Tax Benefits.

(uuu) Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, all local and national PRC governmental tax holidays, exemptions, waivers, financial subsidies, and other local and national PRC tax relief, concessions and preferential treatment enjoyed by any PRC Entity as described in the Registration Statement, the General Disclosure Package and the Prospectus are valid, binding and enforceable and do not violate any laws, regulations, rules, orders, decrees, guidelines, judicial interpretations, notices or other legislation of the PRC.

(vvv) The Placement Agents will not be deemed to be resident, domiciled, carrying on business or subject to taxation in the PRC solely by reason of their execution, delivery, performance or enforcement of, or the consummation of any transaction contemplated by, this Agreement, the Registration Statement, the General Disclosure Package or the Final Prospectus.

Any certificate signed by or on behalf of the Company and delivered to the Representative or to counsel for the Placement Agents shall be deemed to be a representation and warranty by the Company to each Placement Agent as to the matters covered thereby.

3. *PURCHASE, SALE AND DELIVERY OF OFFERED SECURITIES.* On the basis of the representations, warranties and agreements herein contained, but subject to the terms and conditions herein set forth, the Company agrees to deliver to the Purchasers (i) the Stock through the facilities of The Depository Trust Company, (ii) the Preferred Stock in physical, certificated form, and (iii) the Warrants in physical, certificated form, each issued in such names and in such denominations as the Representative may direct by notice in writing to the Company given at or prior to 12:00 Noon, New York time, on the second (2nd) full business day preceding the Closing Date against payment by the Purchasers of the aggregate purchase price therefor at the offices of Goodwin Procter LLP, The New York Times Building, 620 Eighth Avenue, New York, New York. Time shall be of the essence, and delivery at the time and place specified pursuant to this Agreement is a further condition of the obligations of each Placement Agent hereunder. The time and date of the delivery and closing shall be at 10:00 a.m., New York time, on November 19, 2010, in accordance with Rule 15c6-1 of the Exchange Act. The time and date of such payment and delivery are herein referred to as the "Closing Date". The Closing Date and the location of delivery of, and the form of payment for, the Preferred Stock, Stock and Warrants may be varied by agreement between the Company and the Representative.

4. *FURTHER AGREEMENTS OF THE COMPANY.* The Company agrees with the several Placement Agents:

(a) To prepare the Rule 462(b) Registration Statement, if necessary, in a form approved by the Representative and file such Rule 462(b) Registration Statement with the Commission by 10:00 p.m., New York time, on the date hereof, and the Company shall at the time of filing either pay to the Commission the filing fee for the Rule 462(b) Registration Statement or give irrevocable instructions for the payment of such fee pursuant to Rule 111(b) under the Rules and Regulations; to prepare the Prospectus in a form approved by the Representative containing information previously omitted at the time of effectiveness of the Registration Statement in reliance on Rules 430A, 430B or 430C of the Rules and Regulations and to file such Prospectus pursuant to Rule 424(b) of the Rules and Regulations not later than the second business (2nd) day following the execution and delivery of this Agreement or, if applicable, such earlier time as may be required by Rule 430A of the Rules and Regulations; prior to the expiration of the Prospectus Delivery Period (as defined below), to notify the Representative immediately of the Company's intention to file or prepare any supplement or amendment to any Registration Statement or to the Prospectus and to make no amendment or supplement to the Registration Statements, the General Disclosure Package or to the Prospectus to which the Representative shall reasonably object by notice to the Company after a reasonable period to review; prior to the expiration of the Prospectus Delivery Period, to advise the Representative, promptly after it receives notice thereof, of the time when any amendment to any Registration Statement has been filed or becomes effective or any supplement to the General Disclosure Package or the Prospectus or any amended Prospectus has been filed and to furnish the Placement Agents with copies thereof; to file promptly all material required to be filed by the Company with the Commission pursuant to Rules 433(d) or 163(b)(2) of the Rules and Regulations, as the case may be; to file promptly all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of the Prospectus and for so long as the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) of the Rules and Regulations) is required in connection with the offering or sale of the Preferred Stock, Stock and Warrants (the "Prospectus Delivery Period"); prior to the expiration of the Prospectus Delivery Period, to advise the Representative, promptly after it receives notice thereof, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus, any Issuer Free Writing Prospectus or the Prospectus, of the suspension of the qualification of the Preferred Stock, Stock and Warrants for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose, or of any request by the Commission for the amending or supplementing of the Registration Statements, the General Disclosure Package or the Prospectus or for additional information; and, in the event of the issuance of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus, any Issuer Free Writing Prospectus or the Prospectus or suspending any such qualification, and promptly to use its reasonable best efforts to obtain the withdrawal of such order.

(b) The Company represents and agrees that, unless it obtains the prior consent of the Representative, and each Placement Agent represents and agrees that, unless it obtains the prior consent of the Company and the Representative, it has not made and will not, other than the Final Term Sheet (defined below), if any, prepared and filed pursuant to Section 4(c) hereof, make any offer relating to the Preferred Stock, Stock and Warrants that would constitute a "free writing prospectus" as defined in Rule 405 of the Rules and Regulations unless the prior written consent of the Representative has been received (each, a "Permitted Free Writing Prospectus"); *provided* that the prior written consent of the Representative hereto shall be deemed to have been given in respect of the Issuer Free Writing Prospectuses included in Schedule I hereto. The Company represents that it has treated and agrees that it will treat each Permitted Free Writing Prospectus as an Issuer Free Writing Prospectus, comply with the requirements of Rules 164 and 433 of the Rules and Regulations applicable to any Issuer Free Writing Prospectus, including the requirements relating to timely filing with the Commission, legending and record keeping and will not take any action that would result in a Placement Agent or the Company being required to file with the Commission pursuant to Rule 433(d) of the Rules and Regulations a free writing prospectus prepared by or on behalf of such Placement Agent that such Placement Agent otherwise would not have been required to file thereunder. The Company consents to the use by any Placement Agent of a free writing prospectus that (a) is not an "issuer free writing prospectus" as defined in Rule 433 of the Rules and Regulations, and (b) contains only (i) information describing the preliminary terms of the Preferred Stock, Stock and Warrants or their offering and (ii) information that described the final terms of the Preferred Stock, Stock and Warrants or their offering and that is included in the Final Term Sheet, if any, contemplated in Section 4(c) below.

(c) At the request of the Representative, the Company will prepare a final term sheet (the “Final Term Sheet”) reflecting the final terms of the Preferred Stock, Stock and Warrants, in form and substance satisfactory to the Representative, and shall file such Final Term Sheet as an Issuer Free Writing Prospectus pursuant to Rule 433 of the Rules and Regulations prior to the close of business two (2) business days after the date hereof; *provided* that the Company shall provide the Representative with copies on any such Final Term Sheet within a reasonable amount of time prior to such proposed filing and will not use or file any such document to which the Representative or counsel to the Placement Agent shall reasonably object.

(d) If at any time prior to the expiration of nine (9) months after the later of (i) the latest effective date of the Registration Statement or (ii) the date of the Prospectus, when a prospectus relating to the Preferred Stock, Stock and Warrants is required to be delivered (or in lieu thereof, the notice referred to in Rule 173(a) of the Rules and Regulations) any event occurs or condition exists as a result of which the Prospectus as then amended or supplemented would include any untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made when the Prospectus is delivered (or in lieu thereof, the notice referred to in Rule 173(a) of the Rules and Regulations), not misleading, or if it is necessary at any time to amend or supplement any Registration Statement or the Prospectus or to file under the Exchange Act any document incorporated by reference in the Prospectus to comply with the Securities Act or the Exchange Act, that the Company will promptly notify the Representative thereof and upon its request will prepare an appropriate amendment or supplement or upon its request make an appropriate filing pursuant to Section 13 or 14 of the Exchange Act in form and substance satisfactory to the Representative which will correct such statement or omission or effect such compliance and will use its reasonable best efforts to have any amendment to any Registration Statement declared effective as soon as possible. The Company will furnish without charge to each Placement Agent and to any dealer in securities as many copies as the Representative may from time to time reasonably request of such amendment or supplement. In case any Placement Agent is required to deliver a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) of the Rules and Regulations) relating to the Preferred Stock, Stock and Warrants nine (9) months or more after the later of (i) the latest effective date of the Registration Statement or (ii) the date of the Prospectus, the Company upon the request of the Representative will prepare promptly an amended or supplemented Prospectus as may be necessary to permit compliance with the requirements of Section 10(a)(3) of the Securities Act and deliver to such Placement Agent as many copies as such Placement Agent may reasonably request of such amended or supplemented Prospectus complying with Section 10(a)(3) of the Securities Act.

(e) If the General Disclosure Package is being used to solicit offers to buy the Preferred Stock, Stock and Warrants at a time when the Prospectus is not yet available to prospective purchasers and any event shall occur as a result of which, in the judgment of the Company or in the reasonable opinion of the Placement Agents, it becomes necessary to amend or supplement the General Disclosure Package in order to make the statements therein, in the light of the circumstances then prevailing, not misleading, or to make the statements therein not conflict with the information contained or incorporated by reference in the Registration Statement then on file and not superseded or modified, or if it is necessary at any time to amend or supplement the General Disclosure Package to comply with any law, the Company promptly will either (i) prepare, file with the Commission (if required) and furnish to the Placement Agents and any dealers an appropriate amendment or supplement to the General Disclosure Package or (ii) prepare and file with the Commission an appropriate filing under the Exchange Act which shall be incorporated by reference in the General Disclosure Package so that the General Disclosure Package as so amended or supplemented will not, in the light of the circumstances then prevailing, be misleading or conflict with the Registration Statement then on file, or so that the General Disclosure Package will comply with law.

(f) If at any time following issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or will conflict with the information contained in the Registration Statement, Pricing Prospectus or Prospectus, including any document incorporated by reference therein and any prospectus supplement deemed to be a part thereof and not superseded or modified or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances prevailing at the subsequent time, not misleading, the Company has promptly notified or will promptly notify the Representative so that any use of the Issuer Free Writing Prospectus may cease until it is amended or supplemented and has promptly amended or will promptly amend or supplement, at its own expense, such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission. The foregoing sentence does not apply to statements in or omissions from any Issuer Free Writing Prospectus in reliance upon, and in conformity with, written information furnished to the Company through the Representative by or on behalf of any Placement Agent specifically for inclusion therein, which information the parties hereto agree is limited to the Placement Agent's Information (as defined in Section 17).

(g) Upon request of the Representative, to furnish promptly to the Representative and to counsel for the Placement Agents a signed copy of each of the Registration Statements as originally filed with the Commission, and of each amendment thereto filed with the Commission, including all consents and exhibits filed therewith.

(h) To deliver promptly to the Representative in New York City such number of the following documents as the Representative shall reasonably request: (i) conformed copies of the Registration Statements as originally filed with the Commission (in each case excluding exhibits), (ii) each Preliminary Prospectus, (iii) any Issuer Free Writing Prospectus, (iv) the Prospectus (the delivery of the documents referred to in clauses (i), (ii), (iii) and (iv) of this paragraph (h) to be made not later than 10:00 a.m., New York time, on the business day following the execution and delivery of this Agreement), (v) conformed copies of any amendment to the Registration Statement (excluding exhibits), (vi) any amendment or supplement to the General Disclosure Package or the Prospectus after the date hereof (the delivery of the documents referred to in clauses (v) and (vi) of this paragraph (h) to be made not later than 10:00 a.m., New York City time, on the business day following the date of such amendment or supplement) and (vii) any document incorporated by reference in the General Disclosure Package or the Prospectus (excluding exhibits thereto) (the delivery of the documents referred to in clause (vii) of this paragraph (h) to be made not later than 10:00 a.m., New York City time, on the business day following the date of such document); provided, however, that filing with the Commission on EDGAR (as defined below) of any document specified in clause (vii) of this paragraph (h) shall constitute delivery to the Representative.

(i) To make generally available to its shareholders as soon as practicable, but in any event not later than sixteen (16) months after the effective date of each Registration Statement (as defined in Rule 158(c) of the Rules and Regulations), an earnings statement of the Company (which need not be audited) complying with Section 11(a) of the Securities Act and the Rules and Regulations (including, at the option of the Company, Rule 158).

(j) To take promptly from time to time such actions as the Representative may reasonably request to qualify the Preferred Stock, Stock and Warrants for offering and sale under the securities or Blue Sky laws of such jurisdictions (domestic or foreign) as the Representative may designate and to continue such qualifications in effect, and to comply with such laws, for so long as required to permit the offer and sale of Preferred Stock, Stock and Warrants in such jurisdictions; *provided* that the Company shall not be obligated to qualify as foreign corporations in any jurisdiction in which they are not so qualified or to file a general consent to service of process in any jurisdiction.

(k) Upon request, during the period of five (5) years from the date hereof, to deliver to each of the Placement Agents, (i) as soon as they are available, copies of all reports or other communications furnished to shareholders generally, and (ii) as soon as they are available, copies of any reports and financial statements furnished or filed with the Commission or any national securities exchange on which the Common Stock is listed. However, so long as the Company is subject to the reporting requirements of either Section 13 or Section 15(d) of the Exchange Act and is timely filing reports with the Commission on its Electronic Data Gathering, Analysis and Retrieval system ("EDGAR"), it is not required to furnish such reports or statements to the Placement Agents.

(1) That the Company will not, for a period of ninety (90) days from the date of this Agreement, (the “Lock-Up Period”) without the prior written consent of Cowen, directly or indirectly offer, sell, assign, transfer, pledge, contract to sell, or otherwise dispose of, any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock, other than (1) the Company’s sale of the Preferred Stock, Stock and Warrants hereunder; (2) the issuance of Common Stock, options to acquire Common Stock or other equity awards pursuant to the Company’s employee benefit plans, qualified stock option plans, employee stock purchase plans or other employee compensation plans as such plans are in existence on the date hereof and described in the Prospectus and as such plans may be amended in a separate proposal at the Company’s special meeting of shareholders to be held to, inter alia, approve the issuance of shares to the equity holders of Progenitor Cell Therapy (“PCT”), (3) the issuance of Common Stock pursuant to the valid exercises, vesting or settlements of options, warrants or rights outstanding on the date hereof, (4) the issuance of Common Stock or securities convertible or exercisable into shares of Common Stock in connection with the Company’s transaction with PCT, (5) the issuance of units consisting of Common Stock and warrants to purchase Common Stock pursuant to that certain Underwriting Agreement dated of even date herewith by and among the Company and the underwriters named therein (the “Concurrent Common Offering”), (6) the issuance of shares of Common Stock or securities convertible or exercisable into shares of Common Stock to consultants (including in connection with investor relations activities) or (7) the issuance of shares of Common Stock or securities convertible or exercisable into shares of Common Stock in connection with any acquisition, strategic partnership, joint venture or collaboration to which the Company is a party, or the acquisition or license of any products or technology by the Company, but shall not include any such transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities; provided that the number of shares of Common Stock issued or underlying securities convertible or exercisable for Common Stock issued pursuant to clause (7) shall not exceed 3.7 million shares in the aggregate and provided further that, prior to the issuance of any such securities pursuant to clause (6) or (7), the Company shall cause the recipients of such securities to execute and deliver to the Representative letter agreements, each substantially in the form of Exhibit A hereto. The Company will cause each person and entity listed in Exhibit B to furnish to the Representative, prior to the Closing Date, a letter, substantially in the form of Exhibit A hereto. The Company also agrees that during such period, other than for the sale of the Preferred Stock, Stock and Warrants hereunder, the Company will not file any registration statement, preliminary prospectus or prospectus, or any amendment or supplement thereto, under the Securities Act for any such transaction or which registers, or offers for sale, Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock, except (i) for the filing of a registration statement at anytime on Form S-8 relating to employee benefit plans and Form S-4 relating to the transaction with PCT and (ii) for the filing of a registration statement at anytime after the 30th day following the date of this Agreement on Form S-3 related to the resale of the Company’s Common Stock on behalf of selling stockholders who have registration rights outstanding as of the date of this Agreement. The Company hereby agrees that (i) if it issues an earnings release or material news, or if a material event relating to the Company occurs, during the last seventeen (17) days of the Lock-Up Period, or (ii) if prior to the expiration of the Lock-Up Period, the Company announces that it will release earnings results during the sixteen (16)-day period beginning on the last day of the Lock-Up Period, the restrictions imposed by this paragraph (1) or the letter shall continue to apply until the expiration of the eighteen (18)-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event. The Company will provide the Representative with prior notice (in accordance with Section 14 herein) of any such announcement that gives rise to an extension of the Lock-Up Period, subject to the Representative’s agreement to hold such information in confidence prior to public disclosure of the same.

- (m) To supply the Representative with copies of all correspondence to and from, and all documents issued to and by, the Commission in connection with the registration of the Preferred Stock, Stock and Warrants under the Securities Act or any of the Registration Statements, any Preliminary Prospectus or the Prospectus, or any amendment or supplement thereto or document incorporated by reference therein.
- (n) Prior to the Closing Date, to furnish to the Representative, as soon as they have been prepared, copies of any unaudited interim consolidated financial statements of the Company and its subsidiaries for any periods subsequent to the periods covered by the financial statements appearing in the Registration Statements and the Prospectus.
- (o) Prior to the Closing Date, not to issue any press release or other communication directly or indirectly or hold any press conference with respect to the Company, its condition, financial or otherwise, or earnings, business affairs or business prospects (except for routine oral marketing communications in the ordinary course of business and consistent with the past practices of the Company and of which the Representative is notified), without the prior written consent of the Representative, which consent shall not be unreasonably delayed, withheld or conditioned, unless in the judgment of the Company and its counsel, and after notification to the Representative, such press release or communication is required by law.
- (p) Until Cowen shall have notified the Company of the completion of the distribution of the Preferred Stock, Stock and Warrants, that the Company will not, and will use its reasonable best efforts to cause its affiliated purchasers (as defined in Regulation M under the Exchange Act) not to, either alone or with one or more other persons, bid for or purchase, for any account in which it or any of its affiliated purchasers has a beneficial interest, any Preferred Stock, Stock and Warrants, or attempt to induce any person to purchase any Preferred Stock, Stock and Warrants; and not to, and to use its reasonable best efforts to cause its affiliated purchasers not to, make bids or purchase for the purpose of creating actual, or apparent, active trading in or of raising the price of the Preferred Stock, Stock and Warrants.
- (q) To use its reasonable best efforts not to take any action prior the Closing Date which would require the Prospectus to be amended or supplemented pursuant to Section 4(d).

(r) To at all times comply in all material respects with all applicable provisions of the Sarbanes-Oxley Act in effect from time to time and to file with the Commission such information on Form 10-Q or Form 10-K as may be required by Rule 463 of the Rules and Regulations.

(s) [Reserved.]

(t) To apply the net proceeds from the sale of the Preferred Stock, Stock and Warrants as set forth in the Registration Statement, the General Disclosure Package and the Prospectus under the heading "Use of Proceeds," and except as disclosed in the General Disclosure Package, the Company does not intend to use any of the proceeds from the sale of the Preferred Stock, Stock and Warrants hereunder to repay any outstanding debt owed to any affiliate of any Placement Agent. The Company shall manage its affairs and investments in such a manner as not to be or become an "investment company" within the meaning of the Investment Company Act and the rules and regulations thereunder.

(u) To use its best efforts to list, subject to notice of issuance, and to maintain the listing of the Stock, Conversion Shares and Warrant Shares on the Exchange.

(v) To use its best efforts to do and perform all things required to be done or performed under this Agreement by the Company prior to the Closing Date and to satisfy all conditions precedent to the delivery of the Preferred Stock, Stock and Warrants.

(w) To reserve and keep available at all times a sufficient number of shares of Common Stock for the purpose of enabling the Company to issue the Conversion Shares and Warrant Shares.

(x) Upon request of any Placement Agent, to furnish, or cause to be furnished, to such Placement Agent an electronic version of the Company's corporate logo for use on the website, if any, operated by such Placement Agent for the purpose of facilitating the on-line offering of the Preferred Stock, Stock and Warrants (the "License"); *provided, however* that the License shall be used solely for the purpose described above, is granted without any fee and may not be assigned or transferred.

5. **PAYMENT OF EXPENSES.** The Company agrees to pay, or reimburse if paid by any Placement Agent, whether or not the transactions contemplated hereby are consummated or this Agreement is terminated: (a) the costs incident to the authorization, issuance, sale, preparation and delivery of the Preferred Stock, Stock and Warrants and any taxes payable in that connection; (b) the costs incident to the registration of the Preferred Stock, Stock and Warrants under the Securities Act; (c) the costs incident to the preparation, printing and distribution of the Registration Statements, the Base Prospectus, any Preliminary Prospectus, any Issuer Free Writing Prospectus, the General Disclosure Package, the Prospectus, any amendments, supplements and exhibits thereto or any document incorporated by reference therein and the costs of printing, reproducing and distributing, this Agreement and any closing documents by mail, telex or other means of communications; (d) the fees and expenses (including related fees and expenses of counsel for the Placement Agents) incurred in connection with securing any required review by FINRA of the terms of the sale of the Preferred Stock, Stock and Warrants and any filings made with FINRA; (e) any applicable listing or other fees; (f) the fees and expenses (including related fees and expenses of counsel to the Placement Agents) of qualifying the Preferred Stock, Stock and Warrants under the securities laws of the several jurisdictions as provided in Section 4(j) and of preparing, printing and distributing wrappers, Blue Sky Memoranda and Legal Investment Surveys; (g) the cost of preparing and printing stock certificates and Warrants; (h) all fees and expenses of the registrar and transfer agent of the Preferred Stock, Stock and Warrants, if any; (i) the fees, disbursements and expenses of counsel to the Placement Agents; (j) the costs and expenses of the Company relating to investor presentations on any “road show” undertaken in connection with the marketing of the offering of the Preferred Stock, Stock and Warrants, including, without limitation, expenses associated with the preparation or dissemination of any electronic road show, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged in connection with the road show presentations with the prior approval of the Company, travel and lodging expenses of the officers of the Company and such consultants, including the cost of any aircraft chartered in connection with the road show, and (k) all other costs and expenses incident to the offering of the Preferred Stock, Stock and Warrants or the performance of the obligations of the Company under this Agreement (including, without limitation, the fees and expenses of the Company’s counsel and the Company’s independent accountants); *provided* that the Company shall not be liable for and shall not be obligated to pay any such fees, costs, expenses or disbursements to the Placement Agents for out-of-pocket expenses (including fees, costs, expenses or disbursements for the Placement Agents’ counsel) in excess of \$50,000 in the aggregate; and *provided further* that, except to the extent otherwise provided in this Section 5 and in Section 9, the Placement Agents shall pay their own costs and expenses, including the fees and expenses of their counsel, any transfer taxes on the resale of any Preferred Stock, Stock and Warrants by them and the expenses of advertising any offering of the Preferred Stock, Stock and Warrants made by the Placement Agents.

6. **CONDITIONS OF PLACEMENT AGENTS’ OBLIGATIONS.** The respective obligations of the several Placement Agents hereunder are subject to the accuracy, when made and as of the Applicable Time and on the Closing Date, of the representations and warranties of the Company contained herein, to the accuracy of the statements of the Company made in any certificates pursuant to the provisions hereof, to the performance by the Company of its obligations hereunder, and to each of the following additional terms and conditions:

(a) The Registration Statements have become effective under the Securities Act, and no stop order suspending the effectiveness of any Registration Statement or any part thereof, preventing or suspending the use of any Base Prospectus, any Preliminary Prospectus, the Prospectus or any Permitted Free Writing Prospectus or any part thereof shall have been issued and no proceedings for that purpose or pursuant to Section 8A under the Securities Act shall have been initiated or threatened by the Commission, and all requests for additional information on the part of the Commission (to be included or incorporated by reference in the Registration Statements or the Prospectus or otherwise) shall have been complied with to the reasonable satisfaction of the Representative; the Rule 462(b) Registration Statement, if any, each Issuer Free Writing Prospectus and the Prospectus shall have been filed with, the Commission within the applicable time period prescribed for such filing by, and in compliance with, the Rules and Regulations and in accordance with Section 4(a), and the Rule 462(b) Registration Statement, if any, shall have become effective immediately upon its filing with the Commission; and FINRA shall have raised no objection to the fairness and reasonableness of the terms of this Agreement or the transactions contemplated hereby.

- (b) None of the Placement Agents shall have discovered and disclosed to the Company on or prior to the Closing Date that any Registration Statement or any amendment or supplement thereto contains an untrue statement of a fact which, in the opinion of counsel for the Placement Agents, is material or omits to state any fact which, in the opinion of such counsel, is material and is required to be stated therein or is necessary to make the statements therein not misleading, or that the General Disclosure Package, any Issuer Free Writing Prospectus or the Prospectus or any amendment or supplement thereto contains an untrue statement of fact which, in the opinion of such counsel, is material or omits to state any fact which, in the opinion of such counsel, is material and is necessary in order to make the statements, in the light of the circumstances in which they were made, not misleading.
- (c) All corporate proceedings incident to the authorization, form and validity of each of this Agreement, the Preferred Stock, the Stock, the Warrants, the Registration Statements, the General Disclosure Package, each Issuer Free Writing Prospectus and the Prospectus and the transactions contemplated hereby shall be reasonably satisfactory in all material respects to counsel for the Placement Agents, and the Company shall have furnished to such counsel all documents and information that they may reasonably request to enable them to pass upon such matters.
- (d) Lowenstein Sandler PC shall have furnished to the Representative such counsel's written opinion and negative assurance statement, as counsel to the Company, addressed to the Placement Agents and dated the Closing Date, in form and substance reasonably satisfactory to the Representative and set forth on Exhibit C hereto.
- (e) Jun He Law Offices LLC shall have furnished to the Representative such counsel's written opinion and negative assurance statement, as PRC counsel to the Company, addressed to the Placement Agents and dated the Closing Date, in form and substance reasonably satisfactory to the Representative and set forth on Exhibit D hereto.
- (f) Fuerst Ittleman, PL shall have furnished to the Representative such counsel's written opinion and negative assurance statement, as FDA counsel to the Company, addressed to the Placement Agents and dated the Closing Date, in form and substance reasonably satisfactory to the Representative and set forth on Exhibit E hereto.
- (g) Kenyon & Kenyon LLP shall have furnished to the Representative such counsel's written opinion and negative assurance statement, as Intellectual Property counsel to the Company, addressed to the Placement Agents and dated the Closing Date, in form and substance reasonably satisfactory to the Representative and set forth on Exhibit F hereto.
- (h) Epstein Becker & Green, P.C. shall have furnished to the Representative such counsel's written opinion and negative assurance statement, as special counsel to PCT, addressed to the Placement Agents and dated the Closing Date, in form and substance reasonably satisfactory to the Representative and set forth on Exhibit G hereto.

(i) The Representative shall have received from Goodwin Procter LLP, counsel for the Placement Agents, such counsel's written opinion and negative assurance statement, dated the Closing Date, with respect to such matters as the Placement Agents may reasonably require, and the Company shall have furnished to such counsel such documents as they request for enabling them to pass upon such matters.

(j) At the time of the execution of this Agreement, the Representative shall have received from each of (i) Holtz Rubenstein Reminick LLP, (ii) Deloitte & Touche LLP, and (iii) EisnerAmper LLP, a letter, addressed to the Placement Agents, executed and dated such date, in form and substance satisfactory to the Representative (i) confirming that they are an independent registered accounting firm with respect to the Company or PCT, as applicable, within the meaning of the Securities Act and the Rules and Regulations and PCAOB and (ii) stating the conclusions and findings of such firm, of the type ordinarily included in accountants' "comfort letters" to underwriters, with respect to the financial statements and certain financial information contained or incorporated by reference in the Registration Statements, the General Disclosure Package and the Prospectus.

(k) On the effective date of any post-effective amendment to any Registration Statement and on the Closing Date, the Representative shall have received a letter (the "bring-down letter") from each of (i) Holtz Rubenstein Reminick LLP, (ii) Deloitte & Touche LLP, and (iii) EisnerAmper LLP addressed to the Placement Agents and dated the Closing Date confirming, as of the date of the bring-down letter (or, with respect to matters involving changes or developments since the respective dates as of which specified financial information is given in the General Disclosure Package and the Prospectus, as the case may be, as of a date not more than three (3) business days prior to the date of the bring-down letter), the conclusions and findings of such firm, of the type ordinarily included in accountants' "comfort letters" to underwriters, with respect to the financial information and other matters covered by its letter delivered to the Representative concurrently with the execution of this Agreement pursuant to paragraph (j) of this Section 6.

(l) The Company shall have furnished to the Representative a certificate, dated the Closing Date, of its Chief Executive Officer and its Chief Financial Officer stating that (i) such officers have carefully examined the Registration Statement, the General Disclosure Package, any Permitted Free Writing Prospectus and the Prospectus and, in their opinion, the Registration Statements and each amendment thereto, at the Applicable Time, as of the date of this Agreement and as of the Closing Date did not include any untrue statement of a material fact and did not omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and the General Disclosure Package, as of the Applicable Time and as of the Closing Date, any Permitted Free Writing Prospectus as of its date and as of the Closing Date, the Prospectus and each amendment or supplement thereto, as of the respective date thereof and as of the Closing Date, did not include any untrue statement of a material fact and did not omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances in which they were made, not misleading, (ii) since the effective date of the Initial Registration Statement, no event has occurred which should have been set forth in a supplement or amendment to the Registration Statements, the General Disclosure Package or the Prospectus, (iii) to the best of their knowledge after reasonable investigation, as of the Closing Date, the representations and warranties of the Company in this Agreement are true and correct and the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date, and (iv) there has not been, subsequent to the date of the most recent audited financial statements included or incorporated by reference in the General Disclosure Package, any material adverse change in the financial position or results of operations of the Company and its subsidiaries, or any change or development that, singularly or in the aggregate, would involve a material adverse change or a prospective material adverse change, in or affecting the condition (financial or otherwise), results of operations, business, assets or prospects of the Company and its subsidiaries, except as set forth in the General Disclosure Package or the Prospectus.

(m) Since the date of the latest audited financial statements included in the General Disclosure Package or incorporated by reference in the General Disclosure Package as of the date hereof, (i) neither the Company nor any of its subsidiaries shall have sustained any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth in the General Disclosure Package, and (ii) there shall not have been any change in the capital stock (other than stock option and warrant exercises and stock repurchases in the ordinary course of business) or long-term debt of the Company or any of its subsidiaries, or any change, or any development involving a prospective change, in or affecting the business, general affairs, management, financial position, stockholders' equity or results of operations of the Company and its subsidiaries, otherwise than as set forth in the General Disclosure Package, the effect of which, in any such case described in clause (i) or (ii) of this paragraph (i) is, in the judgment of the Representative, so material and adverse as to make it impracticable or inadvisable to proceed with the sale or delivery of the Preferred Stock, Stock and Warrants on the terms and in the manner contemplated in the General Disclosure Package.

(n) No action shall have been taken and no law, statute, rule, regulation or order shall have been enacted, adopted or issued by any governmental agency or body which would prevent the issuance or sale of the Preferred Stock, Stock and Warrants or materially and adversely affect or potentially materially and adversely affect the business or operations of the Company; and no injunction, restraining order or order of any other nature by any federal or state court of competent jurisdiction shall have been issued which would prevent the issuance or sale of the Preferred Stock, Stock and Warrants or materially and adversely affect or potentially materially and adversely affect the business or operations of the Company.

(o) The Concurrent Common Offering shall have been completed on the Closing Date in accordance with its terms.

- (p) Subsequent to the execution and delivery of this Agreement there shall not have occurred any of the following: (i) trading in securities generally on the New York Stock Exchange, Nasdaq Global Market or the NYSE Amex or in the over-the-counter market, or trading in any securities of the Company on any exchange or in the over-the-counter market, shall have been suspended or materially limited, or minimum or maximum prices or maximum range for prices shall have been established on any such exchange or such market by the Commission, by such exchange or market or by any other regulatory body or governmental authority having jurisdiction, (ii) a banking moratorium shall have been declared by Federal or state or PRC authorities or a material disruption has occurred in commercial banking or securities settlement or clearance services in the United States or the PRC, (iii) the United States or the PRC shall have become engaged in hostilities, or the subject of an act of terrorism, or there shall have been an outbreak of or escalation in hostilities involving the United States or the PRC, or there shall have been a declaration of a national emergency or war by the United States or the PRC or (iv) there shall have occurred such a material adverse change in general economic, political or financial conditions (or the effect of international conditions on the financial markets in the United States or the PRC shall be such) as to make it, in the judgment of the Representative, impracticable or inadvisable to proceed with the sale or delivery of the Preferred Stock, Stock and Warrants on the terms and in the manner contemplated in the General Disclosure Package and the Prospectus.
- (q) The Exchange shall have approved the Stock, Conversion Shares and Warrant Shares for listing therein, subject only to official notice of issuance.
- (r) Cowen shall have received on and as of the Closing Date satisfactory evidence of the good standing of the Company and its subsidiaries in their respective jurisdictions of organization and their good standing as foreign entities in such other jurisdictions as Cowen may reasonably request, in each case in writing or any standard form of telecommunication from the appropriate Governmental Authorities of such jurisdictions.
- (s) Cowen shall have received the written agreements, substantially in the form of Exhibit A hereto, of the persons and entities listed in Exhibit B to this Agreement.
- (t) The Company shall have furnished to the Placement Agents a Certificate of the Chief Financial Officer of the Company, in form and substance reasonably satisfactory to counsel for the Placement Agents.
- (u) The Company shall have furnished to the Placement Agents a Secretary's Certificate of the Company, in form and substance reasonably satisfactory to counsel for the Placement Agents.
- (v) The Company shall have entered into Subscription Agreement with each of the Purchasers and such agreement shall be in full force and effect.
- (w) On or prior to the Closing Date, the Company shall have furnished to Cowen such further certificates and documents as Cowen may reasonably request.

All opinions, letters, evidence and certificates mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for the Placement Agents.

7. *INDEMNIFICATION AND CONTRIBUTION.*

(a) The Company shall indemnify and hold harmless each Placement Agent, its directors, officers, managers, members, employees, representatives and agents and each person, if any, who controls any Placement Agent within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively the “Placement Agent Indemnified Parties,” and each a “Placement Agent Indemnified Party”) against any loss, claim, damage, expense or liability whatsoever (or any action, investigation or proceeding in respect thereof), joint or several, to which such Placement Agent Indemnified Party may become subject, under the Securities Act or otherwise, insofar as such loss, claim, damage, expense, liability, action, investigation or proceeding arises out of or is based upon (A) any untrue statement or alleged untrue statement of a material fact contained in any Preliminary Prospectus, any Issuer Free Writing Prospectus, any “issuer information” that is used in connection with the offering and sale of the Preferred Stock, Stock and Warrants by, or with the approval of, the Company filed or required to be filed pursuant to Rule 433(d) of the Rules and Regulations, any Registration Statement or the Prospectus, or in any amendment or supplement thereto or document incorporated by reference therein, or (B) the omission or alleged omission to state in any Preliminary Prospectus, any Issuer Free Writing Prospectus, any “issuer information” that is used in connection with the offering and sale of the Preferred Stock, Stock and Warrants by, or with the approval of, the Company filed or required to be filed pursuant to Rule 433(d) of the Rules and Regulations, any Registration Statement or the Prospectus, or in any amendment or supplement thereto or document incorporated by reference therein, a material fact required to be stated therein or necessary to make the statements therein in light of (other than in the case of any Registration Statement) the circumstances under which they are made not misleading, and shall reimburse each Placement Agent Indemnified Party promptly upon demand for any legal fees or other expenses reasonably incurred by that Placement Agent Indemnified Party in connection with investigating, or preparing to defend, or defending against, or appearing as a third party witness in respect of, or otherwise incurred in connection with, any such loss, claim, damage, expense, liability, action, investigation or proceeding, as such fees and expenses are incurred; *provided, however*, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage, expense or liability arises out of or is based upon an untrue statement or alleged untrue statement in, or omission or alleged omission from any Preliminary Prospectus, any Registration Statement or the Prospectus, or any such amendment or supplement thereto, or any Issuer Free Writing Prospectus made in reliance upon and in conformity with written information furnished to the Company through the Representative by or on behalf of any Placement Agent specifically for use therein, which information the parties hereto agree is limited to the Placement Agent’s Information (as defined in Section 17).

The indemnity agreement in this Section 7(a) is not exclusive and is in addition to each other liability which the Company might have under this Agreement or otherwise, and shall not limit any rights or remedies which may otherwise be available under this Agreement, at law or in equity to any Placement Agent Indemnified Party.

(b) Each Placement Agent, severally and not jointly, shall indemnify and hold harmless the Company and its directors, its officers who signed the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively the “Company Indemnified Parties” and each a “Company Indemnified Party”) against any loss, claim, damage, expense or liability whatsoever (or any action, investigation or proceeding in respect thereof), joint or several, to which such Company Indemnified Party may become subject, under the Securities Act or otherwise, insofar as such loss, claim, damage, expense, liability, action, investigation or proceeding arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material fact contained in any Preliminary Prospectus, any Issuer Free Writing Prospectus, any “issuer information” filed or required to be filed pursuant to Rule 433(d) of the Rules and Regulations, any Registration Statement or the Prospectus, or in any amendment or supplement thereto, or (ii) the omission or alleged omission to state in any Preliminary Prospectus, any Issuer Free Writing Prospectus, any “issuer information” filed or required to be filed pursuant to Rule 433(d) of the Rules and Regulations, any Registration Statement or the Prospectus, or in any amendment or supplement thereto, a material fact required to be stated therein or necessary to make the statements therein in light of (other than in the case of any Registration Statement) the circumstances under which they are made not misleading, but in each case only to the extent that the untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information furnished to the Company through the Representative by or on behalf of that Placement Agent specifically for use therein, which information the parties hereto agree is limited to the Placement Agent’s Information as defined in Section 17, and shall reimburse the Company Indemnified Parties promptly on demand for any legal or other expenses reasonably incurred by such party in connection with investigating or preparing to defend or defending against or appearing as third party witness in connection with any such loss, claim, damage, liability, action, investigation or proceeding, as such fees and expenses are incurred. This indemnity agreement is not exclusive and will be in addition to any liability which the Placement Agents might otherwise have and shall not limit any rights or remedies which may otherwise be available under this Agreement, at law or in equity to the Company Indemnified Parties.

(c) Promptly after receipt by an indemnified party under this Section 7 of notice of the commencement of any action, the indemnified party shall, if a claim in respect thereof is to be made against an indemnifying party under this Section 7, notify such indemnifying party in writing of the commencement of that action; *provided, however*, that the failure to notify the indemnifying party shall not relieve it from any liability which it may have under this Section 7 except to the extent it has been materially prejudiced by such failure; and, *provided, further*, that the failure to notify an indemnifying party shall not relieve it from any liability which it may have to an indemnified party otherwise than under this Section 7. If any such action shall be brought against an indemnified party, and it shall notify the indemnifying party thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it wishes, jointly with any other similarly notified indemnifying party, to assume the defense of such action with counsel reasonably satisfactory to the indemnified party (which counsel shall not, except with the written consent of the indemnified party, be counsel to the indemnifying party). After notice from the indemnifying party to the indemnified party of its election to assume the defense of such action, except as provided herein, the indemnifying party shall not be liable to the indemnified party under Section 7 for any legal or other expenses subsequently incurred by the indemnified party in connection with the defense of such action other than reasonable costs of investigation; *provided, however*, that any indemnified party shall have the right to employ separate counsel in any such action and to participate in the defense of such action but the fees and expenses of such counsel (other than reasonable costs of investigation) shall be at the expense of such indemnified party unless (i) the employment thereof has been specifically authorized in writing by the Company in the case of a claim for indemnification under Section 7(a) or Cowen in the case of a claim for indemnification under Section 7(b), (ii) such indemnified party shall have been advised by its counsel that there may be one or more legal defenses available to it which are different from or additional to those available to the indemnifying party, or (iii) the indemnifying party has failed to assume the defense of such action and employ counsel reasonably satisfactory to the indemnified party within a reasonable period of time after notice of the commencement of the action or the indemnifying party does not diligently defend the action after assumption of the defense, in which case, if such indemnified party notifies the indemnifying party in writing that it elects to employ separate counsel at the expense of the indemnifying party, the indemnifying party shall not have the right to assume the defense of (or, in the case of a failure to diligently defend the action after assumption of the defense, to continue to defend) such action on behalf of such indemnified party and the indemnifying party shall be responsible for legal or other expenses subsequently incurred by such indemnified party in connection with the defense of such action; *provided, however*, that the indemnifying party shall not, in connection with any one such action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys at any time for all such indemnified parties (in addition to any local counsel), which firm shall be designated in writing by Cowen if the indemnified parties under this Section 7 consist of any Placement Agent Indemnified Party or by the Company if the indemnified parties under this Section 7 consist of any Company Indemnified Parties. Subject to this Section 7(c), the amount payable by an indemnifying party under Section 7 shall include, but not be limited to, (x) reasonable legal fees and expenses of counsel to the indemnified party and any other expenses in investigating, or preparing to defend or defending against, or appearing as a third party witness in respect of, or otherwise incurred in connection with, any action, investigation, proceeding or claim, and (y) all amounts paid in settlement of any of the foregoing. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of judgment with respect to any pending or threatened action or any claim whatsoever, in respect of which indemnification or contribution could be sought under this Section 7 (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party in form and substance reasonably satisfactory to such indemnified party from all liability arising out of such action or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party. Subject to the provisions of the following sentence, no indemnifying party shall be liable for settlement of any pending or threatened action or any claim whatsoever that is effected without its written consent (which consent shall not be unreasonably withheld or delayed), but if settled with its written consent, if its consent has been unreasonably withheld or delayed or if there be a judgment for the plaintiff in any such matter, the indemnifying party agrees to indemnify and hold harmless any indemnified party from and against any loss or liability by reason of such settlement or judgment. In addition, if at any time an indemnified party shall have requested that an indemnifying party reimburse the indemnified party for fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Sections 7(a) or 7(b) effected without its written consent if (i) such settlement is entered into more than forty-five (45) days after receipt by such indemnifying party of the request for reimbursement, (ii) such indemnifying party shall have received notice of the terms of such settlement at least thirty (30) days prior to such settlement being entered into and (iii) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

(d) If the indemnification provided for in this Section 7 is unavailable or insufficient to hold harmless an indemnified party under Section 7(a) or 7(b), then each indemnifying party shall, in lieu of indemnifying such indemnified party, contribute to the amount paid, payable or otherwise incurred by such indemnified party as a result of such loss, claim, damage, expense or liability (or any action, investigation or proceeding in respect thereof), as incurred, (i) in such proportion as shall be appropriate to reflect the relative benefits received by the Company on the one hand and the Placement Agents on the other from the offering of the Preferred Stock, Stock and Warrants, or (ii) if the allocation provided by clause (i) of this Section 7(d) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) of this Section 7(d) but also the relative fault of the Company on the one hand and the Placement Agents on the other with respect to the statements, omissions, acts or failures to act which resulted in such loss, claim, damage, expense or liability (or any action, investigation or proceeding in respect thereof) as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Placement Agents on the other with respect to such offering shall be deemed to be in the same proportion as the total net proceeds from the offering of the Preferred Stock, Stock and Warrants purchased under this Agreement (before deducting expenses) received by the Company bear to the total placement agent fees received by the Placement Agents with respect to the Preferred Stock, Stock and Warrants offered under this Agreement, in each case as set forth in the table on the cover page of the Prospectus. The relative fault of the Company on the one hand and the Placement Agents on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or the Placement Agents on the other, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such untrue statement, omission, act or failure to act; *provided* that the parties hereto agree that the written information furnished to the Company through the Representative by or on behalf of the Placement Agents for use in the Preliminary Prospectus, any Registration Statement or the Prospectus, or in any amendment or supplement thereto, consists solely of the Placement Agent's Information as defined in Section 17.

(e) The Company and the Placement Agents agree that it would not be just and equitable if contributions pursuant to Section 7(d) above were to be determined by pro rata allocation or by any other method of allocation which does not take into account the equitable considerations referred to Section 7(d) above. The amount paid or payable by an indemnified party as a result of the loss, claim, damage, expense, liability, action, investigation or proceeding referred to in Section 7(d) above shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating, preparing to defend or defending against or appearing as a third party witness in respect of, or otherwise incurred in connection with, any such loss, claim, damage, expense, liability, action, investigation or proceeding. Notwithstanding the provisions of this Section 7, no Placement Agents shall be required to contribute any amount in excess of the total placement agent fees received by such Placement Agent with respect to the offering of the Preferred Stock, Stock and Warrants exceeds the amount of any damages which the Placement Agent has otherwise paid or become liable to pay by reason of any untrue or alleged untrue statement, omission or alleged omission, act or alleged act or failure to act or alleged failure to act. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. The Placement Agents' obligations to contribute as provided in this Section 7 are several in proportion to their respective obligations and not joint.

8. **TERMINATION.** The obligations of the Placement Agents hereunder may be terminated by Cowen, in its absolute discretion by notice given to the Company prior to delivery of and payment for the Preferred Stock, Stock and Warrants if, prior to that time, any of the events described in Sections 6(m) or 6(p) have occurred, or if the Placement Agents shall decline to place the Preferred Stock, Stock and Warrants for any reason permitted under this Agreement. In addition, the obligations of the Placement Agents hereunder may be terminated by Cowen if the Purchasers shall decline to purchase the Preferred Stock, Stock and Warrants for any reason permitted under the Subscription Agreement. The Company hereby acknowledges that in the event that this Agreement is terminated by the Placement Agents pursuant to the terms hereof, the Subscription Agreement shall automatically terminate without any further action on the part of the parties thereto

9. **REIMBURSEMENT OF PLACEMENT AGENTS' EXPENSES.** Notwithstanding anything to the contrary in this Agreement, if (a) this Agreement shall have been terminated pursuant to Section 8 or 10, (b) the Company shall fail to tender the Preferred Stock, Stock and Warrants for delivery to the Placement Agents for any reason not permitted under this Agreement, (c) the Placement Agents shall decline to purchase the Preferred Stock, Stock and Warrants for any reason permitted under this Agreement, (d) the sale of the Preferred Stock, Stock and Warrants is not consummated because any condition to the obligations of the Placement Agents set forth herein is not satisfied or (e) the sale of the Preferred Stock, Stock and Warrants is not consummated because of the refusal, inability or failure on the part of the Company to perform any agreement herein or to satisfy any condition or to comply with the provisions hereof, then in addition to the payment of amounts in accordance with Section 5, the Company shall reimburse the Placement Agents for the fees and expenses of Placement Agents' counsel and for such other out-of-pocket expenses as shall have been reasonably incurred by them in connection with this Agreement and the proposed purchase of the Preferred Stock, Stock and Warrants, including, without limitation, travel and lodging expenses of the Placement Agents, and upon demand the Company shall pay the full amount thereof to Cowen; provided that in no event shall the Company be obligated to reimburse the Placement Agents pursuant to clauses (a), (c) or (d) in an amount in excess of \$125,000 in the aggregate (which amount shall be reduced by any amount due and payable by the Company pursuant to Section 9 of that certain underwriting agreement executed in connection with the Concurrent Common Offering). If this Agreement is terminated pursuant to Section 10 by reason of the default of one or more Placement Agents, the Company shall not be obligated to reimburse any defaulting Placement Agent on account of expenses to the extent incurred by such defaulting Placement Agent *provided* that the foregoing shall not limit any reimbursement obligation of the Company to any non-defaulting Placement Agent under this Section 9.

10. [RESERVED.]

11. **ABSENCE OF FIDUCIARY RELATIONSHIP.** The Company acknowledges and agrees that:

(a) each Placement Agent's responsibility to the Company is solely contractual in nature, the Representative have been retained solely to act as placement agent in connection with the sale of the Preferred Stock, Stock and Warrants and no fiduciary, advisory or agency relationship between the Company and the Representative has been created in respect of any of the transactions contemplated by this Agreement, irrespective of whether the Representative has advised or is advising the Company on other matters;

(b) the price of the Preferred Stock, Stock and Warrants set forth in this Agreement was established by the Company following discussions and arms-length negotiations with the Representative, and the Company is capable of evaluating and understanding, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement;

(c) it has been advised that the Representative and its affiliates are engaged in a broad range of transactions which may involve interests that differ from those of the Company and that the Representative has no obligation to disclose such interests and transactions to the Company by virtue of any fiduciary, advisory or agency relationship; and

(d) it waives, to the fullest extent permitted by law, any claims it may have against the Representative for breach of fiduciary duty or alleged breach of fiduciary duty and agrees that the Representative shall have no liability (whether direct or indirect) to the Company in respect of such a fiduciary duty claim or to any person asserting a fiduciary duty claim on behalf of or in right of the Company, including stockholders, employees or creditors of the Company.

12. *SUCCESSORS; PERSONS ENTITLED TO BENEFIT OF AGREEMENT.* This Agreement shall inure to the benefit of and be binding upon the several Placement Agents, the Company and their respective successors and assigns. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, other than the persons mentioned in the preceding sentence, any legal or equitable right, remedy or claim under or in respect of this Agreement, or any provisions herein contained, this Agreement and all conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of such persons and for the benefit of no other person; except that the representations, warranties, covenants, agreements and indemnities of the Company contained in this Agreement shall also be for the benefit of the Placement Agent Indemnified Parties, and the indemnities of the several Placement Agents shall be for the benefit of the Company Indemnified Parties. It is understood that each Placement Agent's responsibility to the Company is solely contractual in nature and the Placement Agents do not owe the Company, or any other party, any fiduciary duty as a result of this Agreement. No purchaser of any of the Preferred Stock, Stock and Warrants from any Placement Agent shall be deemed to be a successor or assign by reason merely of such purchase.

13. *SURVIVAL OF INDEMNITIES, REPRESENTATIONS, WARRANTIES, ETC.* The respective indemnities, covenants, agreements, representations, warranties and other statements of the Company and the several Placement Agents, as set forth in this Agreement or made by them respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation made by or on behalf of any Placement Agent, the Company or any person controlling any of them and shall survive delivery of and payment for the Preferred Stock, Stock and Warrants. Notwithstanding any termination of this Agreement, including without limitation any termination pursuant to Section 8 or Section 10, the indemnities, covenants, agreements, representations, warranties and other statements forth in Sections 2, 5, 7 and 9 and Sections 11 through 21, inclusive, of this Agreement shall not terminate and shall remain in full force and effect at all times.

14. *NOTICES.* All statements, requests, notices and agreements hereunder shall be in writing, and:

(a) if to the Placement Agents, shall be delivered or sent by mail, telex, or facsimile transmission to Cowen and Company, LLC, 1221 Avenue of the Americas, New York, New York 10020, Attention: Head of Equity Capital Markets, Fax: 646-562-1249 with a copy to the General Counsel, Fax: 646-562-1861, with a copy (which shall not constitute notice hereunder) to Goodwin Procter LLP, The New York Times Building, 620 Eighth Avenue, New York, New York 10018, Attention: Michael D. Maline, Esq., Fax: 212-355-3333; and

(b) if to the Company, shall be delivered or sent by mail, telex, or facsimile transmission to NeoStem, Inc., 420 Lexington Avenue, Suite 450, New York, New York 10170, Attention: General Counsel, Fax: 646-514-7787, with a copy (which shall not constitute notice hereunder) to Lowenstein Sandler PC, 65 Livingston Avenue, Roseland, New Jersey 07068, Attention: Alan Wovsaniker, Esq., Fax: 973-597-2400;

provided, however, that any notice to a Placement Agent pursuant to Section 7 shall be delivered or sent by mail, or facsimile transmission to such Placement Agent at its address set forth in its acceptance telex to the Representative, which address will be supplied to any other party hereto by the Representative upon request. Any such statements, requests, notices or agreements shall take effect at the time of receipt thereof.

15. **DEFINITION OF CERTAIN TERMS.** For purposes of this Agreement, (a) “business day,” means any day on which the New York Stock Exchange, Inc. is open for trading and (b) “subsidiary,” has the meaning set forth in Rule 405 of the Rules and Regulations.

16. **GOVERNING LAW AND JURISDICTION.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York, including without limitation Section 5-1401 of the New York General Obligations. The Company irrevocably (a) submits to the non-exclusive jurisdiction of the Federal and state courts in the Borough of Manhattan in The City of New York for the purpose of any suit, action or other proceeding arising out of this Agreement or the transactions contemplated by this Agreement, the Registration Statements and any Preliminary Prospectus or the Prospectus, (b) agrees that all claims in respect of any such suit, action or proceeding may be heard and determined by any such court, (c) waives to the fullest extent permitted by applicable law, any immunity from the jurisdiction of any such court or from any legal process, (d) agrees not to commence any such suit, action or proceeding other than in such courts, and (e) waives, to the fullest extent permitted by applicable law, any claim that any such suit, action or proceeding is brought in an inconvenient forum.

17. **PLACEMENT AGENTS' INFORMATION.** The parties hereto acknowledge and agree that, for all purposes of this Agreement, the Placement Agents' Information consists solely of the statements concerning the Placement Agents contained in the fourth paragraph under the heading “Plan of Distribution” in the Prospectus.

18. **AUTHORITY OF THE REPRESENTATIVE.** In connection with this Agreement, you will act for and on behalf of the several Placement Agents, and any action taken under this Agreement by the Representative, will be binding on all the Placement Agents.

19. **PARTIAL UNENFORCEABILITY.** The invalidity or unenforceability of any section, paragraph, clause or provision of this Agreement shall not affect the validity or enforceability of any other section, paragraph, clause or provision hereof. If any section, paragraph, clause or provision of this Agreement is for any reason determined to be invalid or unenforceable, there shall be deemed to be made such minor changes (and only such minor changes) as are necessary to make it valid and enforceable.

20. *GENERAL.* This Agreement constitutes the entire agreement of the parties to this Agreement and supersedes all prior written or oral and all contemporaneous oral agreements, understandings and negotiations with respect to the subject matter hereof, including, without limitation the letter agreement dated as of October 20, 2010 between the Company and Cowen and Company, LLC. In this Agreement, the masculine, feminine and neuter genders and the singular and the plural include one another. The section headings in this Agreement are for the convenience of the parties only and will not affect the construction or interpretation of this Agreement. This Agreement may be amended or modified, and the observance of any term of this Agreement may be waived, only by a writing signed by the Company and the Representative.

21. *COUNTERPARTS.* This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

If the foregoing is in accordance with your understanding of the agreement between the Company and the several Placement Agents, kindly indicate your acceptance in the space provided for that purpose below.

Very truly yours,

NEOSTEM, INC.

By: /s/ Robin L. Smith

Name: Robin L. Smith

Title: Chief Executive Officer

Accepted as of the
date first above written:

COWEN AND COMPANY, LLC

Acting on its own behalf and as Representative
of the several Placement Agents referred to in the foregoing Agreement.

By: /s/ Kevin J. Raidy

Name: Kevin J. Raidy

Title: Managing Director

SCHEDULE I

General Use Free Writing Prospectuses

[None.]

SCHEDULE II

Pricing Information

Number of Preferred Stock Sold: 10,582,011

Number of Stock Sold: 164,418

Number of Warrants Sold: 1,322,486

Purchase Price Per Unit: \$0.945

Net Proceeds to the Company: \$925,000 (excluding reimbursable expenses)

Schedule 2(ff)

The Company's Erye subsidiary has approved the conversion of some of Erye's reserve capital into registered capital. The formal process for making that conversion has not been completed. Therefore Erye's registered capital has not yet been fully paid to such extent.

EXHIBIT A

Form of Lock-Up Agreement

EXHIBIT B

Officers, Directors, and Shareholders Executing Lock-Up Agreements

Drew Bernstein
Eric H.C. Wei
Robin L. Smith, M.D., MBA
Richard Berman
Steven S. Myers
Edward C. Geehr, M.D.
Larry A. May
Catherine M. Vaczy
Alan G. Harris, M.D., Ph.D.
Anthony Salerno
Teresa Lepore
Christopher Duignan
Madam Zhang Jian
Shi Mingsheng
Peter Sun
Daisy Dai
Ian Zhang
Shari Pine
Wayne Marasco
Jian Qian Cai Mao
Chris Peng Mao
Fulbright Finance Limited
RimAsia

EXHIBIT C

Form of Legal Opinion and Negative Assurance Statement of Lowenstein Sandler PC

EXHIBIT D

Form of Legal Opinion and Negative Assurance Statement of Jun He Law Offices LLC

EXHIBIT E

Form of Legal Opinion and Negative Assurance Statement of Fuerst Ittleman PL

EXHIBIT F

Form of Legal Opinion and Negative Assurance Statement of Kenyon & Kenyon LLP

EXHIBIT G

Form of Legal Opinion and Negative Assurance Statement of Epstein Becker & Green P.C.

EXHIBIT H

Form of Warrant

EXHIBIT I

Form of Securities Purchase Agreement

CERTIFICATE OF DESIGNATIONS OF THE POWERS, PREFERENCES AND RELATIVE, PARTICIPATING, OPTIONAL AND OTHER SPECIAL RIGHTS OF PREFERRED STOCK AND QUALIFICATIONS, LIMITATIONS AND RESTRICTIONS THEREOF

**of
SERIES E 7% SENIOR CONVERTIBLE PREFERRED STOCK
for
NEOSTEM, INC.**

NEOSTEM, INC., a Delaware corporation (the “Corporation”), pursuant to the provisions of Section 151 of the General Corporation Law of the State of Delaware, does hereby make this Certificate of Designations and does hereby state and certify that pursuant to the authority expressly vested in the Board of Directors of the Corporation by the Certificate of Incorporation of the Corporation, the Board of Directors duly adopted the following resolutions, which resolutions remain in full force and effect as of the date hereof:

RESOLVED, that, pursuant to Article Fourth of the Certificate of Incorporation of the Corporation, the Board of Directors hereby authorizes the issuance of, and fixes the designation and preferences and relative, participating, optional and other special rights, and qualifications, limitations and restrictions, of a series of Preferred Stock consisting of 10,582,011 shares, par value \$0.01 per share, to be designated “Series E 7% Senior Convertible Preferred Stock” (the “Preferred Shares”).

RESOLVED, that each of the Preferred Shares shall rank equally in all respects and shall be subject to the following terms and provisions:

1. Certain Defined Terms. For purposes of this Certificate of Designations, the following terms shall have the following meanings:

(a) “Bloomberg” means Bloomberg Financial Markets.

(b) “Business Day” means any day other than Saturday, Sunday or other day on which commercial banks in the City of New York are authorized or required by law to remain closed.

(c) “Common Stock” means the common stock, par value \$0.001 per share, of the Corporation.

(d) “Common Shares” means fully paid, validly issued and non-assessable shares of Common Stock.

(e) “Dollar Volume Limitation” means fifteen percent (15%) of the aggregate dollar trading volume of the Common Stock on the NYSE Amex Equities (or other applicable Trading Market) over the twenty-two (22) consecutive Trading Day period ending on the Trading Day immediately preceding the date of the Mandatory Redemption Notice (as defined below) or Optional Redemption Notice (as defined below), as applicable. For the purposes of this section the term “dollar trading volume” for any Trading Day shall be determined by multiplying the Daily VWAP by the volume as reported on Bloomberg for such Trading Day.

(f) “Daily VWAP” means, for any date, (i) the daily volume weighted average price of the Common Stock for such date on the NYSE Amex Equities as reported by Bloomberg (based on a Trading Day from 9:30 a.m. New York City Time to 3:59 p.m. New York City Time); (ii) if the Common Stock is not then listed on the NYSE Amex Equities, the daily volume weighted average price of the Common Stock for such date on such other Trading Market where the Common Stock is then listed as reported by Bloomberg (based on a Trading Day from 9:30 a.m. New York City Time to 3:59 p.m. New York City Time); (iii) if the foregoing do not apply, the volume weighted average price of the Common Stock in the over-the-counter market on the electronic bulletin board for the Common Stock as reported by Bloomberg, or, if no volume weighted average price is reported for such security by Bloomberg, the highest bid as reported on the “pink sheets” by Pink Sheets LLC (formerly the National Quotation Bureau, Inc.) at the close of trading; or (iv) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Required Holders and reasonably acceptable to the Corporation.

(g) “Equity Conditions” means each of the following: (i) on each day during the Equity Conditions Measuring Period, all Common Shares to be issued on the applicable Mandatory Redemption Date (or such other date on or event for which the Equity Conditions are required to be satisfied) shall be eligible for resale by the Holder without restriction and without need for additional registration under any applicable federal or state securities laws, and the Corporation shall have no knowledge of any fact that would cause any Common Shares not to be so eligible for resale by the Holder without restriction and without need for additional registration under any applicable federal or state securities laws; (ii) on each day during the Equity Conditions Measuring Period, the Common Shares are designated for listing on a Trading Market and shall not have been suspended from trading on such Trading Market nor shall delisting or suspension by such exchange or market have been threatened or pending in writing by such exchange nor shall there be any Securities and Exchange Commission (“SEC”) or judicial stop trade order or trading suspension stop order; (iii) any Common Shares to be issued in connection with the applicable Mandatory Redemption Date (or such other date on or event for which the Equity Conditions are required to be satisfied) may be issued in full without violating the rules or regulations of the Trading Market or any applicable laws; (iv) on each day during the Equity Conditions Measuring Period, there shall not have occurred and be continuing, unless waived by the Holder, either (A) a Trigger Event (as defined below) or (B) an event that with the passage of time or giving of notice would constitute a Trigger Event; (v) on each day during the Equity Conditions Measuring Period, the Corporation has not provided any Holder with any non-public information in breach of Section 3.8 of the Purchase Agreement; (vi) on each day during the Equity Conditions Measuring Period, neither the Registration Statement (as defined in the Purchase Agreement) nor the Prospectus (as defined in the Purchase Agreement) nor any Prospectus Supplements (as defined in the Purchase Agreement) contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading and such Registration Statement, such Prospectus and such Prospectus Supplements comply with all applicable securities laws as to form and substance (unless all Common Shares issuable on the applicable Mandatory Redemption Date (or such other date requiring payment in Common Shares) may be resold by the Holder pursuant to Rule 144 under the Securities Act of 1933, as amended (the “Securities Act”) without volume limitations or any public information requirements or such other exemption from registration that would permit the Holder to resell such Common Shares without restriction and without need for additional registration under any securities laws); (vii) the Corporation’s transfer agent for the Common Shares is participating in the Depository Trust Company (“DTC”) Fast Automated Securities Transfer Program; and (ix) all Common Shares to be issued in connection with the applicable Mandatory Redemption Date (or such other date on or event for which the Equity Conditions are required to be satisfied) are duly authorized and will be validly issued, fully paid and non-assessable upon issuance, free and clear of all liens, claims or encumbrances, and the issuance thereof will not require any further approvals of the Corporation’s Board of Directors or stockholders. All references to the “Registration Statement” or “Prospectus” shall include any amendments or supplements thereto, as filed from time to time, including, without limitation, any Exchange Act (as defined below) filings incorporated by reference.

(h) “Equity Conditions Measuring Period” means the period beginning twenty (20) Trading Days prior to the applicable Mandatory Redemption Date (or such other date on or event for which the Equity Conditions are required to be satisfied) and ending on and including such Mandatory Redemption Date. For the avoidance of doubt, the Equity Conditions Measuring Period for each Mandatory Redemption Date shall include the Stock Payment Pricing Period and such Mandatory Redemption Date.

(i) “Equity Line” means (i) the Common Stock Purchase Agreement, dated May 19, 2010, by and between the Corporation and Commerce Court Small Cap Value Fund, Ltd. and the transactions contemplated thereby and/or (ii) any other similar agreement, contract, arrangement or understanding commonly known as an “equity line” between the Corporation and any person.

(j) “Excluded Securities” means (a) Common Shares or Common Stock Equivalents issued pursuant to a stock option plan that has been approved by the Board of Directors and stockholders of the Corporation, pursuant to which the Corporation's securities may be issued only to a person eligible for award under such plan, (b) Common Shares or Common Stock Equivalents issued to employees or consultants (including in connection with investor relations activities) for compensatory purposes, (c) Common Shares or Common Stock Equivalents issued upon the exercise or conversion of Common Stock Equivalents outstanding on the date hereof, (d) Common Shares or Common Stock Equivalents issued to investors in the common stock and warrant offering contemplated by Section 4.2(i) of the Purchase Agreement, (e) Common Shares or Common Stock Equivalents issued in the pending transaction with Progenitor Cell Therapy, LLC (“Progenitor”) as currently contemplated by that certain Agreement and Plan of Merger, dated September 23, 2010, by and among the Corporation, NBS Acquisition Company LLC and Progenitor (the “Merger Agreement”), (f) Common Shares or Common Stock Equivalents issued in the transactions contemplated by the Purchase Agreement, including pursuant to the Certificate of Designations or the Warrants, and (g) Common Shares or Common Stock Equivalents issued or deemed to be issued in connection with any acquisition by the Corporation, whether through a merger, an acquisition of stock or an acquisition of assets, or a license, of any business, product, assets or technologies, or any strategic partnership, strategic investment or joint venture involving any technology or product, or any other transaction the primary purpose of which is not to raise capital; provided however, that the number of Common Shares which may be issued pursuant to this clause (g) in any transaction, or series of related transactions, shall not exceed 33% of the number of Common Shares outstanding immediately prior to any such transaction.

(k) "Holder" means each holder of the Preferred Shares.

(l) "Initial Issuance Date" means November 19, 2010.

(m) "Mandatory Redemption Shares" means, with respect to (a) any Mandatory Redemption Date (other than the Maturity Date) an amount equal to 1/27th of the Preferred Shares initially issued pursuant to the Purchase Agreement (regardless of whether any Holder has converted any shares of Preferred Stock pursuant to Section 7 or the Corporation has optionally redeemed any shares of Preferred Stock pursuant to Section 8) and (b) the Maturity Date, all outstanding Preferred Shares.

(n) "Mandatory Redemption Date" means March 19, 2011 [**date that is four months after the Closing Date**], and the 19th day of each calendar month thereafter (or the next Trading Day thereafter) and ending on and including the Maturity Date. Notwithstanding anything contained herein to the contrary and for all purposes hereunder, the Maturity Date shall be deemed to be a Mandatory Redemption Date.

(o) "Maturity Date" means May 20, 2013.

(p) "Purchase Agreement" means the Securities Purchase Agreement, of even date herewith, by and among the Corporation and the initial purchasers of Preferred Shares thereunder.

(q) "Required Holders" means the Holders of Preferred Shares representing at least a majority of the aggregate Preferred Shares then outstanding.

(r) "Stock Payment Price" means, with respect to any date when any amount hereunder is due and payable, that price which shall be computed as 92% of the arithmetic average of the five lowest Daily VWAPs of the Common Shares during the Stock Payment Pricing Period. All such determinations will be appropriately adjusted for any stock split, stock dividend, stock combination or other similar transaction.

(s) "Stock Payment Pricing Period" means, with respect to any Mandatory Redemption Date or any other date when any amount hereunder is due and payable, the twenty (20) Trading Days immediately prior to such date. For the avoidance of doubt, the Stock Payment Pricing Period does not include the Mandatory Redemption Date or such other date when any amount hereunder is due and payable.

(t) "Subsidiaries" shall have the meaning as set forth in the Purchase Agreement.

(u) “Trading Day” means 9:30AM to 3:59PM on any day on which the Common Shares are traded on a Trading Market, or, if the Common Shares are not so traded, a Business Day.

(v) “Trading Market” means the NYSE Amex Equities, the New York Stock Exchange or the NASDAQ Global Select Market, the NASDAQ Global Market or the NASDAQ Capital Market.

(w) “Tax” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any related penalty or interest).

(x) “Tax Deduction” means a deduction or withholding for or on account of Tax from a payment under this Certificate of Designations.

(y) “Transfer Agent” means Continental Stock Transfer or such other person designated by the Corporation as the transfer agent for the Common Shares.

(z) “Warrants” shall have the meaning as set forth in the Purchase Agreement.

2. **Designation.** There is hereby created out of the authorized and unissued shares of preferred stock of the Corporation a series of preferred stock designated as the “Series E 7% Senior Convertible Preferred Stock” (the “Preferred Stock”). The number of shares constituting such series shall be 10,582,011.

3. **Cumulative Dividends.** The Holders of the Preferred Shares shall be entitled to receive dividends payable in cash (or, at the Corporation’s option in Common Shares pursuant to Section 6) on the Liquidation Preference (as defined below) of such Preferred Share at the per share rate of seven percent (7%) per annum, which shall be cumulative. Dividends on the Preferred Shares shall commence accruing on the Initial Issuance Date and shall be computed on the basis of a 360-day year of twelve 30-day months. Dividends shall be payable in arrears on each Mandatory Redemption Date.

4. **Liquidation Preference.** In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary (a “Liquidation Event”), the Holders of the Preferred Shares shall be entitled to receive, out of the assets of the Corporation available for distribution to stockholders (“Liquidation Funds”), prior and in preference to any distribution of any assets of the Corporation to the holders of any other class or series of equity securities, the amount of one dollar (\$1.00) per share plus all accrued but unpaid dividends (the “Liquidation Preference”). After payment of the full amount of the Liquidation Preference, in the case of a Liquidation Event, the Holders will not be entitled to any further participation in any distribution of assets of the Corporation; provided that the foregoing shall not affect any rights which Holders may have with respect to any requirement that the Corporation repurchase the Preferred Shares or for any right to monetary damages. All the preferential amounts to be paid to the Holders of the Preferred Shares under this Section 4 shall be paid or set apart for payment before the payment or setting apart for payment of any amount for, or the distribution of any Liquidation Funds of the Corporation to the holders of shares of other classes or series of preferred stock of the Corporation junior in rank to the Preferred Shares in connection with a Liquidation Event. A Change of Control (as defined below) shall not, *ipso facto*, be deemed a Liquidation Event.

5. **Issuance of Preferred Shares.** The Preferred Shares shall be issued by the Corporation pursuant to the Purchase Agreement.

6. **Mandatory Monthly Redemption.**

(a) *General.* On each applicable Mandatory Redemption Date, the Corporation shall redeem the Mandatory Redemption Shares at an aggregate redemption price equal to the sum of (x) the product of (A) the Liquidation Preference and (B) the number of Mandatory Redemption Shares required to be redeemed on such Mandatory Redemption Date plus (y) any and all accrued but unpaid dividends on all of the outstanding Preferred Shares (the “Mandatory Redemption Price”). Subject to Section 6(g), the Mandatory Redemption Price shall be payable, at the Corporation’s option, in cash or Common Shares or any combination of cash and Common Shares, subject to the provisions of this Section 6; provided, however, that no portion of the Mandatory Redemption Price may be paid in Common Shares unless the Equity Conditions are satisfied or waived by the Required Holders in writing prior to delivery of the applicable Mandatory Redemption Notice (as defined below); provided, further, however, that the portion of the applicable Mandatory Redemption Price that the Corporation elects to pay in Common Shares (if any) shall not exceed the Dollar Volume Limitation (unless waived by the Required Holders in writing).

(b) *Mandatory Redemption Notice.* On a date not less than twenty-two (22) Trading Days, but in no event more than twenty-five (25) Trading Days, prior to each Mandatory Redemption Date (the “Mandatory Redemption Notice Date”), the Corporation shall deliver a written notice (a “Mandatory Redemption Notice”) to the Holders, which shall either: (i) confirm that the entire applicable Mandatory Redemption Price shall be paid in cash; or (ii) (A) state that the Corporation elects to pay all or a portion of the Mandatory Redemption Price in Common Shares, (B) specify the portion that the Corporation elects to pay in cash (expressed in dollars) (such amount, the “Cash Payment Amount”) and the portion that the Corporation elects to pay in Common Shares (expressed in dollars) (such portion a “Stock Payment Amount”), which amounts when added together must equal the applicable Mandatory Redemption Price, (C) certify that the Equity Conditions are then satisfied (or waived by the Required Holders), (D) state the Dollar Volume Limitation (expressed in dollars) and certify that the Stock Payment Amount does not exceed such Dollar Volume Limitation and (E) certify that the Maximum Share Amount (as defined below) has not been exceeded. If (x) the Corporation does not timely deliver a Mandatory Redemption Notice in accordance with this Section 6(b) or (y) the Equity Conditions are not satisfied (unless waived by the Required Holders), then the Corporation shall be deemed to have delivered, a Mandatory Redemption Notice electing to pay the entire Mandatory Redemption Price in cash. Any Cash Payment Amount shall be paid in accordance with Section 6(c) and any Stock Payment Amount shall be paid in accordance with Section 6(d). Each Mandatory Redemption Notice, whether actually given or deemed given, shall be irrevocable.

(c) *Mechanics of Cash Payment.* On each Mandatory Redemption Date, to the extent that the Corporation elects to pay all or any portion of the Mandatory Redemption Price in cash, then the Corporation shall pay all or such portion of the Mandatory Redemption Price, as applicable, by wire transfer of immediately available funds in accordance with the wire instructions of each Holder provided to the Corporation in writing. If the Corporation fails to pay such portion of the Mandatory Redemption Price (“Cash Payment Failure”) to be paid in cash on the applicable Mandatory Redemption Date (the “Applicable Cash Payment”), then the Corporation shall pay damages to the Holder for each day after such Mandatory Redemption Date in an amount in equal to two percent (2%) of such Applicable Cash Payment, but in no event in excess of twenty-four percent (24%) (“Cash Payment Liquidated Damages”). Notwithstanding the foregoing, the Corporation shall only be liable for Cash Payment Liquidated Damages to the extent that there is more than one (1) Cash Payment Failure in any twelve (12) month period. Nothing herein shall limit a Holder’s right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Corporation’s failure to timely pay any Applicable Cash Payment as required pursuant to the terms hereof.

(d) *Mechanics of Stock Payment.*

(i) To the extent that the Corporation elects (or is required pursuant to Section 6(g)) to pay all or any portion of the applicable Mandatory Redemption Price in Common Shares, the applicable Stock Payment Amount shall be paid as follows:

(A) twenty-one (21) Trading Days prior to the applicable Mandatory Redemption Date (the “First Advance Date”), the Corporation shall deliver to the Holders a number of Common Shares determined by dividing (x) the Stock Payment Amount for such Mandatory Redemption Date by (y) ninety-two percent (92%) of the Daily VWAP on the Trading Day immediately preceding such Advance Date (the “First Advance Shares”);

(B) eleven (11) Trading Days prior to the applicable Mandatory Redemption Date (the “Second Advance Date” and together with the First Advance Date, the “Advance Dates” and each, an “Advance Date”), the Corporation shall deliver to the Holders a number of Common Shares equal to the positive difference (if any) between (x) the quotient of (1) the Stock Payment Amount and (2) ninety-two percent (92%) of the average of the five lowest Daily VWAPs during the first (10) ten Trading Days of the applicable Stock Payment Pricing Period and (y) the number of First Advance Shares delivered to the Holders pursuant to 6(d)(i)(B) in connection with such Mandatory Redemption Date (the “Second Advance Shares” and together with the First Advance Shares, the “Advance Shares”). For the avoidance of doubt, to the extent that the difference between clauses (x) and (y) is a negative number the Corporation shall not be required to deliver any Common Shares to the Holders pursuant to this Section 6(d)(i)(C); and

(C) not later than three (3) Trading Days after the applicable Mandatory Redemption Date, the Corporation shall deliver an additional number of Common Shares (the “True-Up Shares”), if any, to the Holders equal to the positive difference between (a) the Stock Payment Amount divided by the Stock Payment Price for such Mandatory Redemption Date and (b) the Advance Shares; provided; however, that if clause (b) exceeds clause (a), then each Holder shall return its pro rata portion of such excess number of Common Shares to the Corporation, and such excess shares shall immediately be deemed cancelled effective as of the applicable Mandatory Redemption Date. For the avoidance of doubt, no Holder shall have any liability to the Corporation to the extent that any Advance Shares that are returned to the Corporation pursuant to the immediately preceding sentence decrease in value following the applicable Advance Date.

(ii) Notwithstanding any other provision of this Section 6.1(d), to the extent that the Corporation elects to pay all or any portion of the applicable Mandatory Redemption Price in Common Shares:

(A) to the extent that the aggregate number of Advance Shares or True-Up Shares to be delivered to a Holder pursuant to this Section 6(d) in respect of any individual Stock Payment Amount would cause such Holder to exceed the Beneficial Ownership Limitation (as defined below), then, (I) the Holder shall provide written notice to the Corporation that such delivery of all or a portion of the Advance Shares or True-Up Shares would cause such Holder to exceed the Beneficial Ownership Limitation, and (II) in addition to delivery of the number of Advance Shares or True-Up Shares that would not cause such Holder to exceed the Beneficial Ownership Limitation, the Corporation shall pay to such Holder in lieu of such number of Advance Shares or True-Up Shares that would cause such Holder to exceed the Beneficial Ownership Limitation (such excess number of shares, the “Excess Shares”), not more than the later of three (3) Trading Days after the Mandatory Redemption Date or ten (10) Trading Days after the date of such Holder’s written notice, an amount in cash equal to the portion of the Stock Payment Amount that would otherwise be payable in respect of the Excess Shares;

(B) to the extent that such Stock Payment Amount, when aggregated with any Common Shares already issued in respect of all of the Preferred Stock, would cause the Maximum Share Amount to be exceeded, then that portion of such Stock Payment Amount that would not exceed the Maximum Share Amount shall be delivered to the Holders hereunder in Common Shares as provided above, ratably based on the Holders' relative ownership of the outstanding Preferred Shares, and the Corporation shall pay to the Holders, not more than three (3) Trading Days after the Mandatory Redemption Date, an amount in cash equal to the Stock Replacement Payment in lieu of any portion of such Stock Payment Amount that would cause the Maximum Share Amount to be exceeded;

(C) if the Equity Conditions are neither (x) satisfied nor (y) waived in accordance with the terms hereof, as applicable, on the Trading Day immediately preceding the First Advance Date and/or on the First Advance Date, or if the Daily VWAP cannot be determined on the Trading Day immediately preceding the First Advance Date, or if the Corporation fails to deliver the First Advance Shares to the Holders on the First Advance Date, then the Holder may, at its option upon written notice to the Corporation, require the Corporation to pay to such Holder, not later than three (3) Trading Days after the Mandatory Redemption Date, an amount of cash equal to the Stock Replacement Payment in lieu of such Stock Payment Amount; or

(D) if subsequent to the delivery of the First Advance Shares (A) the Equity Conditions are neither (x) satisfied nor (y) waived in accordance with the terms hereof, as applicable, on any day of the Stock Payment Pricing Period or (B) if the Daily VWAP cannot be determined on any day of the Stock Payment Pricing Period, then each Holder may, at its option, elect in a written notice to the Corporation to redeliver all or any portion of the Advance Shares to the Corporation and the Corporation shall pay to such Holder, not later than three (3) Trading Days after the Mandatory Redemption Date, an amount of cash equal to the Stock Replacement Payment in lieu of such portion of the Stock Payment Amount for which such Holder has elected in writing to redeliver Advance Shares to the Corporation. For the avoidance of doubt, to the extent this Section 6(d)(ii)(D) applies, then by the third (3rd) Trading Day after the Mandatory Redemption Date the Corporation must pay to the Holder an amount of cash and Advance Shares equal in value to at least the product of (x) a fraction the numerator of which is the average Daily VWAP of the Common Shares for the applicable Stock Payment Pricing Period and the denominator of which is the Stock Payment Price for such Stock Payment Pricing Period and (y) the entire Stock Payment Amount.

The “Stock Replacement Payment” shall be determined according to the following formula:

$$\text{SRP} = (X/Y) * S$$

For the purposes of the foregoing formula:

SRP = Stock Replacement Payment

X = the average Daily VWAP of the Common Shares for the applicable Stock Payment Pricing Period

Y = the Stock Payment Price for the applicable Stock Payment Pricing Period

S = the Stock Payment Amount (or, (A) in the case that either or both of Maximum Share Amount and/or Beneficial Ownership Limitation is exceeded as provided above, only that portion of such Stock Payment Amount that would exceed the Maximum Share Amount and/or Beneficial Ownership Limitation, as applicable, and/or (B) in the case of Section 6(d)(ii)(D) that portion of the Stock Payment Amount for which the Holder has elected in its written notice to redeliver Advance Shares to the Corporation).

(iii) Any Common Shares required to be delivered by the Corporation to a Holder under this Section 6 shall be credited to such Holder’s or its designee’s balance account with DTC through its Deposit/Withdrawal at Custodian system (“DWAC”). In addition, the provisions of the Section 7(c) and Section 7(g) shall apply to the delivery of Common Shares under this Section 6 *mutatis mutandis* as if each date when Common Shares are required to be delivered under this Section 6 was a Share Delivery Date. Notwithstanding the foregoing, the Corporation shall only be liable for Stock Payment Liquidated Damages (as defined below) with respect to any Advance Date or Mandatory Redemption Date to the extent that the Corporation fails to deliver Common Shares when due more than once (1) in any twelve month period.

(e) Each mandatory redemption pursuant to this Section 6 (and the related payment of the Mandatory Redemption Price) shall be made pro rata among the Holders based on each Holder’s relative percentage ownership of the outstanding Preferred Shares.

(f) Notwithstanding the delivery of a Mandatory Redemption Notice or any provision of this Section 6 to the contrary, the Holder may deliver a Conversion Notice with respect to all or any portion of the specific Mandatory Redemption Shares to be redeemed on the applicable Mandatory Redemption Date at any time prior to such Mandatory Redemption Date. Any Advance Shares delivered to such Holder in connection with such Mandatory Redemption Date shall count towards the number of Common Shares that Corporation shall be obligated to deliver on the applicable Share Delivery Date (as defined below), and to the extent that the Advance Shares exceeds the number of Common Shares that the Corporation would be required to deliver on the applicable Share Delivery Date, the Holder shall return such excess to the Corporation.

(g) Each and every time that the Corporation sells any Common Shares pursuant to any Equity Line, the Corporation shall immediately deliver a written notice to each Holder (an “Equity Line Draw Notice”), which Equity Line Draw Notice shall state the aggregate purchase price for such Common Shares (the “Equity Line Aggregate Purchase Price”). Each Holder may, at its option, by delivering a written notice to the Corporation, require the Corporation to pay the Mandatory Redemption Price (or the appropriate portion thereof) on the next succeeding Mandatory Redemption Date (or to the extent that the date of such Equity Line Draw notice is subsequent to the date of the Mandatory Redemption Notice for such Mandatory Redemption Date, then the next succeeding Mandatory Redemption Date) in Common Shares in an amount equal to its “pro rata portion” of the Equity Line Aggregate Purchase Price. To the extent that the Equity Line Aggregate Purchase Price exceeds the aggregate amount of the entire Mandatory Redemption Price for such Mandatory Redemption Date, then on each succeeding Mandatory Redemption Date the Holder may, at its option, by delivering a written notice to the Corporation, require the Corporation to pay its “pro rata portion” of the applicable Mandatory Redemption Price in Common Shares until the Corporation has made aggregate payments in Common Shares equal to its “pro rata portion” of the entire Equity Line Aggregate Purchase Price. Notwithstanding anything contained in this Section 6(g) to the contrary, all payments of Mandatory Redemption Price made in Common Shares shall be subject to Section 6(d) and upon the occurrence of any of the events described in Sections 6(d)(ii)(A) – (D) the Corporation shall make the appropriate Stock Replacement Payment as required by Section 6(d)(ii). For purposes of this Section 6(g), “pro rata portion” means, with respect to each Holder, the number of Preferred Shares then held by such Holder divided by the aggregate number of outstanding Preferred Shares.

7. Optional Conversion by the Holders. Each Holder shall have the right at any time and from time to time, at the option of such Holder, to convert all or any portion of the Preferred Shares held by such Holder, for such number of Common Shares, free and clear of any liens, claims or encumbrances, as is determined by dividing (i) the Liquidation Preference times the number of Preferred Shares being converted, by (ii) the Conversion Price (as defined below) in effect on the Conversion Date (as defined below). Immediately following such conversion, the persons entitled to receive the Common Shares upon the conversion of Preferred Shares shall be treated for all purposes as having become the owners of such Common Shares, subject to the rights provided herein to Holders. The term “Conversion Price” means \$2.0004, subject to adjustment as provided herein.

(a) *Delivery of Conversion Notice.* To convert Preferred Shares into Common Shares on any date (a “Conversion Date”), the Holder shall give written notice (a “Conversion Notice”) to the Corporation in the form of page 1 of Exhibit A hereto (which Conversion Notice will be given by facsimile transmission, e-mail or other electronic means no later than 11:59 p.m. New York City Time on such date, and sent via overnight delivery no later than one (1) Trading Day (as defined below) after such date) stating that such Holder elects to convert the same and shall state therein the number of Preferred Shares to be converted and the name or names in which such Holder wishes the certificate or certificates for Common Shares to be issued. If required by Section 14, as soon as possible after delivery of the Conversion Notice, such Holder shall surrender the certificate or certificates representing the Preferred Shares being converted, duly endorsed, at the office of the Corporation.

(b) *Mechanics of Conversion.* The Corporation shall, promptly upon receipt of a Conversion Notice (but in any event not less than one (1) Trading Day after receipt of such Conversion Notice), (I) send, via facsimile, e-mail or other electronic means a confirmation of receipt of such Conversion Notice to such Holder and the Transfer Agent (as defined below), which confirmation shall constitute an instruction to the Transfer Agent to process such Conversion Notice in accordance with the terms herein and (II) on or before the third (3rd) Trading Day following the date of receipt by the Corporation of such Conversion Notice (the "Share Delivery Date"), credit such aggregate number of Common Shares to which the Holder shall be entitled to such Holder's or its designee's balance account with DTC via DWAC. If the number of Preferred Shares represented by the Preferred Stock certificate(s) delivered to the Corporation in connection with a Conversion Notice, to the extent required by Section 14 or to the extent otherwise requested by the Holder, is greater than the number of Preferred Shares being converted, then the Corporation shall, as soon as practicable and in no event later than three (3) Business Days after receipt of such Preferred Stock certificate(s) (the "Preferred Stock Delivery Date") and at its own expense, issue and deliver to the Holder a new Preferred Stock certificate representing the number of Preferred Shares not converted. The person or persons entitled to receive the Common Shares issuable upon a conversion of Preferred Shares shall be treated for all purposes as the record holder or holders of such Common Shares on the Conversion Date.

The Corporation's obligation to issue Common Shares upon conversion of Preferred Shares shall, except as set forth below, be absolute, is independent of any covenant of any Holder, and shall not be subject to: (i) any offset or defense; or (ii) any claims against the Holders of Preferred Shares whether pursuant to this Certificate, the Purchase Agreement, the Warrant or otherwise, including, without limitation, any claims arising out of any selling or short-selling activity by Holders.

(c) *Corporation's Failure to Timely Convert.* If within three (3) Trading Days after the Corporation's receipt of the facsimile copy of a Conversion Notice the Corporation shall fail to credit a Holder's balance account with DTC for the number of shares of Common Stock to which such Holder is entitled upon such Holder's conversion of Preferred Shares, then in addition to all other available remedies which such Holder may pursue hereunder and under the Purchase Agreement (including indemnification pursuant to Article 5 thereof), the Corporation shall pay additional damages to such Holder for each day after the Share Delivery Date that such conversion is not timely effected in an amount equal to two percent (2.0%) of the product of (I) the sum of the number of Common Shares not issued to the Holder on or prior to the Share Delivery Date and to which such Holder is entitled pursuant to the applicable Conversion Notice and the terms of this Certificate of Designations, and (II) the Closing Sale Price (as defined below) of the Common Stock on the Share Delivery Date, but in no event in excess of twenty-four percent (24.0%) ("Stock Payment Liquidated Damages"). In addition to the foregoing, if on the Share Delivery Date, the Corporation shall fail to credit such Holder's balance account with DTC for the number of Common Shares to which such Holder is entitled upon such Holder's conversion of Preferred Shares, and if on or after such Trading Day the Holder purchases (in an open market transaction or otherwise) Common Shares to deliver in satisfaction of a sale by the Holder of the Common Shares issuable upon such conversion that the Holder anticipated receiving from the Corporation (a "Buy-In"), then the Corporation shall, within three (3) Trading Days after the Holder's request and in the Holder's discretion, either (i) pay cash to the Holder in an amount equal to the Holder's total purchase price (including brokerage commissions and out-of-pocket expenses, if any) for the Common Shares so purchased (the "Buy-In Price"), at which point the Corporation's obligation to deliver such certificate (and to issue such Common Shares) shall terminate, or (ii) promptly honor its obligation to deliver to the Holder a certificate or certificates representing such Common Shares and pay cash to the Holder in an amount equal to the difference between (if any) of the Buy-In Price and the product of (A) such number of Common Shares, times (B) the Closing Sale Price on the Conversion Date. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Corporation's failure to timely deliver certificates representing Common Shares upon conversion of the Preferred Shares as required pursuant to the terms hereof.

The terms "Closing Sale Price" means the last closing trade price for the Common Shares on the NYSE Amex Equities, as reported by Bloomberg, or, if the NYSE Amex Equities begins to operate on an extended hours basis and does not designate the closing trade price then the last trade price, respectively, of such security prior to 3:59 p.m., New York City Time, as reported by Bloomberg, or, if the foregoing do not apply, the last trade price, respectively, of the Common Shares in the over-the-counter market on the electronic bulletin board for the Common Shares as reported by Bloomberg, or, if no last trade price is reported for such security by Bloomberg, the highest bid price as reported on the "pink sheets" by Pink Sheets LLC (formerly the National Quotation Bureau, Inc.) at the close of trading. If the Closing Sale Price cannot be calculated for the Common Shares on a particular date on any of the foregoing bases, the Closing Sale Price of the Common Shares on such date shall be the fair market value as mutually determined by the Corporation and the Holder. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination or other similar transaction during the applicable calculation period.

(d) *Adjustments to the Conversion Price.*

(i) *Adjustments for Stock Splits and Combinations.* If the Corporation shall at any time or from time to time after the Closing Date effect a stock split of the outstanding Common Stock, the applicable Conversion Price in effect immediately prior to the stock split shall be proportionately decreased. If the Corporation shall at any time or from time to time after the Closing Date, combine the outstanding shares of Common Stock, the applicable Conversion Price in effect immediately prior to the combination shall be proportionately increased. Any adjustments under this Section 7(d)(i) shall be effective at the close of business on the date the stock split or combination occurs.

(ii) *Adjustments for Certain Dividends and Distributions.* If the Corporation shall at any time or from time to time on or after the Initial Issuance Date make or issue or set a record date for the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in Common Shares then, and in each event, the applicable Conversion Price in effect immediately prior to such event shall be decreased as of the time of such issuance or, in the event such record date shall have been fixed, as of the close of business on such record date, by multiplying the applicable Conversion Price then in effect by a fraction:

(A) the numerator of which shall be the total number of Common Shares issued and outstanding immediately prior to the time of such issuance or the close of business on such record date; and

(B) the denominator of which shall be the total number of Common Shares issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of Common Shares issuable in payment of such dividend or distribution.

(iii) *Adjustment for Other Dividends and Distributions.* If the Corporation shall at any time or from time to time on or after the Initial Issuance Date make or issue or set a record date for the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in securities or property other than Common Shares, then, and in each event, an appropriate revision to the applicable Conversion Price shall be made and provision shall be made (by adjustments of the Conversion Price or otherwise) so that the Holders of Preferred Shares shall receive upon conversions thereof, in addition to the number of Common Shares receivable thereon, the number of securities of the Corporation or other issuer (as applicable) or other property that they would have received had the Preferred Shares been converted into Common Shares on the date of such event.

(iv) *Adjustments for Issuance of Additional Shares of Common Stock.* In the event the Corporation shall issue or sell any Common Shares (otherwise than as provided in the foregoing subsections (i) through (iii) of this Section 7 or upon the exercise or conversion of Common Stock Equivalents (as defined below) that were outstanding on or prior to the Initial Issuance Date (for the avoidance of doubt, this Section 7(d)(iv) shall apply to the issuance and sale of Common Shares under the Equity Line) (the “Additional Shares”), at a price per share less than the Conversion Price, or without consideration, the Conversion Price then in effect upon each such issuance shall be adjusted to that price (rounded to the nearest cent) determined by multiplying the Conversion Price by a fraction:

(A) the numerator of which shall be equal to the sum of (A) the number of Common Shares outstanding immediately prior to the issuance of such Additional Shares plus (B) the number of Common Shares (rounded to the nearest whole share) which the aggregate consideration for the total number of such Additional Shares so issued would purchase at a price per share equal to the then Conversion Price, and

(B) the denominator of which shall be equal to the number of Common Shares outstanding immediately after the issuance of such Additional Shares.

No adjustment shall be made under this Section 7(d)(iv) upon the issuance of any Additional Shares which are issued pursuant to the exercise, conversion or exchange rights under any Common Stock Equivalents (as defined below), if any such adjustment shall previously have been made upon the issuance of such Common Stock Equivalents (or upon the issuance of any warrant or other rights therefore) pursuant to Section 7(d)(v).

(v) *Issuance of Common Stock Equivalents.* In the event the Corporation shall issue or sell any Common Stock Equivalents (other than the Preferred Shares and the Warrants) and the price per share for which Additional Shares may be issued pursuant to any such Common Stock Equivalent shall be less than the applicable Conversion Price then in effect, or if, after any such issuance of Common Stock Equivalents, the price per share for which Additional Shares of Common Stock may be issued thereafter is amended or adjusted, and such price as so amended shall be less than the applicable Conversion Price in effect at the time of such amendment or adjustment, then the applicable Conversion Price upon each such issuance or amendment shall be adjusted as provided in Section 7(d)(iv). For purposes of the foregoing, in the case of the sale of issuance of any Common Stock Equivalents or in that case that any Common Stock Equivalents are amended and adjusted as provided in this Section 7(d)(v), the maximum number of Additional Shares issuable upon conversion, exchange or exercise of such Common Stock Equivalent shall be deemed to be outstanding at the time of such sale or issuance or amendment or adjustment, as the case may be, and no further adjustment shall be made to the Conversion Price upon the actual issuance of Additional Shares pursuant to the exercise, conversion or exchange of such Common Stock Equivalents. The term "Common Stock Equivalent" means any rights, warrants or options to purchase or other securities convertible into or exchangeable or exercisable for, directly or indirectly, any (1) Common Shares or (2) securities convertible into or exchangeable or exercisable for, directly or indirectly, Common Shares or Common Stock Equivalents.

(vi) *Certain Issues Excepted.* There shall be no adjustment to the Conversion Price pursuant to Section 7(d)(iv) or Section 7(d)(v) with respect to the sale or issuance of Excluded Securities.

(vii) *Calculation of Consideration Received.* In case any Common Stock Equivalents are issued in connection with the issue or sale of other securities of the Corporation, together comprising one integrated transaction in which no specific consideration is allocated to such Common Stock Equivalents by the parties thereto, the Common Stock Equivalents will be deemed to have been issued for a consideration of \$.01. If any Common Shares or Common Stock Equivalents are issued or sold or deemed to have been issued or sold for cash, the consideration received therefor will be deemed to be the net amount received by the Corporation therefor. If any Common Stock or Common Stock Equivalents are issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation will be the fair market value of such consideration. If any Common Stock or Common Stock Equivalents are issued to the owners of the non surviving entity in connection with any merger in which the Corporation is the surviving entity, the amount of consideration therefor will be deemed to be the fair market value of such portion of the net assets and business of the non surviving entity as is attributable to such Common Stock or Common Stock Equivalents, as the case may be. The fair market value of any consideration other than cash or securities will be determined jointly by the Corporation and the Holders of the Preferred Shares. If such parties are unable to reach agreement within 10 days after the occurrence of an event requiring valuation (the "Valuation Event"), the fair market value of such consideration will be determined within five (5) Business Days after the tenth (10th) day following the Valuation Event by an independent, reputable appraiser jointly selected by the Corporation and the Required Holders. The determination of such appraiser shall be deemed binding upon all parties absent manifest error or fraud and the fees and expenses of such appraiser shall be borne by the Corporation.

(e) *Notice of Record Date.* In the event of any taking by the Corporation of a record date of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution, any security or right convertible into or entitling the holder thereof to receive additional Common Shares, or any right to subscribe for, purchase or otherwise acquire any shares of stock of any class or any other securities or property, or to receive any other right, the Corporation shall deliver to each Holder at least twenty (20) days prior to the date specified therein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend, distribution, security or right and the amount and character of such dividend, distribution, security or right.

(f) *Reservation of Stock Issuable Upon Conversion.* The Corporation shall at all times reserve and keep available out of its authorized but unissued Common Stock, solely for the purposes of effecting the conversion and/or redemption of the Preferred Shares, an amount of Common Shares equal to 200% of the number of shares issuable upon conversion of the Preferred Shares at the current Conversion Price (the "Required Reserve Amount"). If at any time while any of the Preferred Shares remain outstanding the Corporation does not have a sufficient number of authorized and unreserved Common Shares to satisfy its obligation to reserve for issuance upon conversion and/or redemption of the Preferred Shares at least a number of Common Shares equal to the Required Reserve Amount (an "Authorized Share Failure"), then the Corporation shall promptly take all action necessary to increase the Corporation's authorized Common Shares to an amount sufficient to allow the Corporation to reserve the Required Reserve Amount for the Preferred Shares then outstanding. Without limiting the generality of the foregoing sentence, as soon as practicable after the date of the occurrence of an Authorized Share Failure, but in no event later than sixty (60) days (or the lesser of (i) ninety (90) days if the proxy statement is reviewed by the staff of the SEC or (ii) ten (10) days after the staff of the SEC indicates that it has no further comments to such proxy statement) after the occurrence of such Authorized Share Failure (the "Meeting Outside Date"), the Corporation shall hold a meeting of its stockholders for the approval of an increase in the number of authorized Shares of Common Stock. In connection with such meeting, the Corporation shall provide each stockholder with a proxy statement and shall use its reasonable best efforts to solicit its stockholders' approval of such increase in authorized Common Shares and to cause its Board of Directors to recommend to the stockholders that they approve such proposal. Notwithstanding the foregoing, if at such time of an Authorized Share Failure, the Corporation is able to obtain the written consent of a majority of the shares of its issued and outstanding Common Stock to approve the increase in the number of authorized shares of Common Stock, the Corporation shall satisfy this obligation by obtaining such consent and submitting for filing with the SEC an Information Statement on Schedule 14C.

(g) *Fractional Shares.* No fractional shares shall be issued upon the conversion of any Preferred Shares. All Common Shares (including fractions thereof) issuable upon conversion of more than one Preferred Share by a Holder thereof and all Preferred Shares issuable upon the purchase thereof shall be aggregated for purposes of determining whether the conversion and/or purchase would result in the issuance of any fractional share. If, after the aforementioned aggregation, the conversion and/or purchase would result in the issuance of a fraction of a share of Common Stock, the Corporation shall, in lieu of issuing any fractional share, either round up the number of shares to the next highest whole number or, at the Corporation's option, pay the Holder otherwise entitled to such fraction a sum in cash equal to the fair market value of such fraction on the Conversion Date (as determined in good faith by the Board of Directors of the Corporation).

(h) *Reorganization, Merger or Going Private.* In case of any reorganization or any reclassification of the capital stock of the Corporation or any consolidation or merger of the Corporation with or into any other corporation or corporations or a sale or transfer of all or substantially all of the assets of the Corporation to any other person or a "going private" transaction under Rule 13e-3 promulgated pursuant to the Securities Exchange Act of 1934 (the "Exchange Act"), as amended, then, as part of such reorganization, consolidation, merger, or transfer if the holders of Common Shares receive any publicly traded securities as part or all of the consideration for such reorganization, reclassification, consolidation, merger or sale, then it shall be a condition precedent of any such event or transaction that provision shall be made such that each Preferred Share shall thereafter be convertible into such new securities at a conversion price and pricing formula which places the Holders of Preferred Shares in an economically equivalent position as they would have been if not for such event. The Corporation shall give each holder written notice at least ten (10) Trading Days prior to the consummation of any such reorganization, reclassification, consolidation, merger or sale. Notwithstanding anything contained herein to the contrary, nothing contained in this Section 7(h) shall be deemed to limit the Holder's right to require the Corporation to repurchase the Preferred Shares in accordance with Section 9.

(i) *Certificate for Conversion Price Adjustment.* The Corporation shall promptly furnish or cause to be furnished to each Holder a certificate prepared by the Corporation setting forth any adjustments or readjustments of the Conversion Price pursuant to this Section 7.

(j) *Failure to Redeliver.* If a Holder fails to re-deliver shares of Common Stock to the Corporation within ten (10) Trading Days of being required to do so pursuant to Section 6(d)(i)(C) in connection with a Mandatory Redemption or Section 8 in connection with an optional redemption by the Corporation, then, unless such Common Shares have been cancelled by the Corporation, the Corporation may, at its option, redeem a number of Preferred Share having a Liquidation Preference equal in value to the product of (x) such number of Common Shares and (y) the Stock Payment Price for such Mandatory Redemption Date or Optional Redemption Date, as the case may be, in lieu of requiring such Holder to return such Common Shares.

(k) *Cash Settlement.* Notwithstanding anything contained herein to the contrary, to the extent that the effectiveness of the Registration Statement or the ability to use the Prospectus has lapsed or such Registration Statement or Prospectus is unavailable for the issuance of Common Shares pursuant to this Section 7, then, unless such Common Shares may be resold by the Holder pursuant to Rule 144 under the Securities Act without volume limitations or any public information requirements or such other exemption from registration that would permit the Holder to resell such Common Shares without restriction and without need for additional registration under any securities laws, at the option of the Holder, any conversion of Preferred Shares into Common Shares shall be “cash settled” and the Corporation shall pay to such Holder an amount in cash equal to the sum of (x) the Liquidation Preference for each Preferred Share being converted and (y) the Conversion Premium. The “Conversion Premium” means the product of (v) the difference between (A) the Daily VWAP on the Conversion Date and (B) the Conversion Price in effect on such Conversion Date and (w) the quotient of (I) the Liquidation Preference times the number of Preferred Shares being converted and (II) the Conversion Price in effect on such Conversion Date, no later than three (3) Trading Days after the date of the applicable Conversion Notice.

8. Optional Redemption by the Corporation. The Corporation may, at its option, redeem the Preferred Stock, at any time and from time to time, in whole or in part (but not less than 1,000,000 Preferred Shares at any one time) for an amount equal to (a) the Liquidation Preference per Preferred Share plus any accrued and unpaid dividends through the Optional Redemption Date (as defined below) (the "Base Redemption Price") plus (b) (i) if such prepayment occurs on or before the twelve (12) month anniversary of the Initial Issuance Date, an amount equal to 15% of the Base Redemption Price or (ii) if such prepayment occurs at any time after the twelve (12) month anniversary of the Initial Issuance Date, an amount equal to 10% of the Base Redemption Price (the additional amount under clause (b) being referred to as the "Additional Redemption Price"). The Base Redemption Price shall be paid in cash and the Additional Redemption Price shall be paid in cash or, at the Corporation's option and provided (w) the Equity Conditions are satisfied (unless waived by the Required Holders), (x) the portion of the Additional Redemption Price to be paid in Common Shares does not exceed the Dollar Volume Limitation (unless waived by the Required Holders), (y) the Maximum Share Amount is not exceeded and (z) the Daily VWAP is available on the Trading Day immediately preceding the First Optional Redemption Advance Date (as defined below) and on each day of the Stock Payment Pricing Period, in Common Shares. The Corporation shall deliver written notice of optional redemption (an "Optional Redemption Notice") to the Holders thirty (30) Trading Days prior to the date set by the Corporation for such optional redemption (the "Optional Redemption Date"), which Optional Redemption Date may not be a Mandatory Redemption Date or any day of a Stock Payment Pricing Period with respect to any Mandatory Redemption Date. For the avoidance of doubt, each Holder may submit a Conversion Notice for the specific Optional Redemption Shares (as defined below) to be redeemed on such Optional Redemption Date at any time prior to the Optional Redemption Date notwithstanding the delivery of an Optional Redemption Notice by the Corporation. Such Optional Redemption Notice shall specify the number of preferred shares to be redeemed (the "Optional Redemption Shares") and what portion of the Additional Redemption Price will be paid in Common Shares (expressed in dollars), what portion of the Additional Redemption Price will be paid in cash (expressed in dollars) and (A) certify that the Equity Conditions are satisfied, (B) state the Dollar Volume Limitation (expressed in dollars) and certify that the portion of the Additional Redemption Price to be paid in Common Shares does not exceed such Dollar Volume Limitation and (C) certify that the Maximum Share Amount has not been exceeded. Such Optional Redemption Notice shall be irrevocable. To the extent that any portion of the Additional Redemption Price will be paid in Common Shares, twenty-one (21) Trading Days prior to the Optional Redemption Date (the "First Optional Redemption Advance Date"), the Corporation shall advance to the Holder a number of Common Shares determined by dividing (x) that portion of the Additional Redemption Price to be paid in Common Shares by (y) 92% of the Daily VWAP on the Trading Day immediately preceding the First Optional Redemption Advance Date (the "First Optional Redemption Advance Shares"). In addition, eleven (11) Trading Days prior to the applicable Optional Redemption Date (the "Second Optional Redemption Advance Date" and together with the First Optional Redemption Advance Date, the "Optional Redemption Advance Dates" and each, an "Optional Redemption Advance Date"), the Corporation shall advance to the Holders and an additional number of Common Shares equal to the positive difference (if any) between (x) the quotient of (1) the portion of the Additional Redemption Price to be paid in Common Shares and (2) the average of the five lowest Daily VWAPs during the first ten (10) Trading Days of the applicable Stock Payment Pricing Period and (y) the number of First Optional Redemption Advance Shares delivered to the Holders pursuant to the immediately preceding sentence in connection with such Optional Redemption Date (the "Second Optional Redemption Advance Shares" and together with the First Optional Redemption Advance Shares, the "Optional Redemption Advance Shares"). Not later than three (3) Trading Days after the Optional Redemption Date, the Corporation shall deliver an additional number of Common Shares, if any, to the Holder equal to the positive difference between (1) that portion of the Additional Redemption Price to be paid in Common Shares divided by the Stock Payment Price and (2) the Optional Redemption Advance Shares. If clause (2) of the immediately preceding sentence exceeds clause (1) of the immediately preceding sentence, then each Holder shall return to the Corporation its pro rata portion of such excess number of Common Shares. For the avoidance of doubt, no Holder shall have any liability to the Corporation to the extent that any Optional Redemption Advance Shares that are returned to the Corporation pursuant to the immediately preceding sentence decrease in value following the applicable Optional Redemption Advance Date. The provisions of Section 6(d)(ii), Section 6(d)(iii), Section 6(e) and Section 6(f) shall apply to this Section 8 mutatis mutandis.

9. Mandatory Repurchase. Each Holder shall have the unilateral option and right to compel the Corporation to repurchase for cash any or all of such Holder's Preferred Shares within three (3) days of a written notice requiring such repurchase (provided that no such written notice shall be required for clauses (v) and (vi) and such demand for repurchase shall be deemed automatically made upon the occurrence of any of the events set forth in such clauses (v) and (vi)) , at a price per Preferred Share equal to the sum of (a) the Liquidation Preference plus (b) any and all accrued and unpaid dividends on the Preferred Shares (the sum of (a) and (b), the "Base Mandatory Repurchase Price") plus (c) (i) if such demand for repurchase occurs on or before the twelve (12) month anniversary of the Initial Issuance Date, an amount equal to 15% of the Base Mandatory Repurchase Price, or (ii) if such demand for repurchase occurs at any time after the twelve (12) month anniversary of the Initial Issuance Date, an amount equal to 10% of the Base Mandatory Repurchase Price, if any of the following events shall have occurred or are continuing:

(i) A Change in Control Transaction (as defined below);

(ii) A "going private" transaction under Rule 13e-3 promulgated pursuant to the Exchange Act;

(iii) A tender offer by the Corporation under Rule 13e-4 promulgated pursuant to the Exchange Act;

(iv) the suspension from trading or the failure of the Common Shares to be listed on a Trading Market for a period of five (5) consecutive Trading Days or for more than an aggregate of ten (10) trading days in any 365-day period;

(v) the entry by a court having jurisdiction in the premises of (i) a decree or order for relief in respect of the Corporation or any Subsidiary of a voluntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or (ii) a decree or order adjudging the Corporation or any Subsidiary as bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Corporation or any Subsidiary under any applicable federal or state law or (iii) appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Corporation or any Subsidiary or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive days;

(vi) the commencement by the Corporation or any Subsidiary of a voluntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by it to the entry of a decree or order for relief in respect of the Corporation or any Subsidiary in an involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under any applicable federal or state law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Corporation or any Subsidiary or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Corporation or any Subsidiary in furtherance of any such action;

(vii) following an Authorized Share Failure, the Corporation fails to receive stockholder approval or the written consent of a majority of the issued and outstanding Common Shares to approve the required increase in the number of Common Shares within five (5) days after the Meeting Outside Date; or

(viii) the Corporation's failure to deliver Common Shares on any Share Delivery Date, Advance Date, Mandatory Redemption Date or Optional Redemption Date, if such failure continues for two (2) Trading Days after the date that delivery of such Common Shares is due;

(ix) the Corporation's failure to pay any amounts when and as due pursuant to this Certificate of Designations or any other Transaction Document, if such failure continues for two (2) Trading Days after the date that such payment is due;

(x) the Corporation breaches any covenants and agreements contained in Section 13 of this Certificate of Designations, Section 3.10 of the Purchase Agreement, Section 3.11, Section 3.12 of the Purchase Agreement and/or Section 3.14 of the Purchase Agreement;

(xi) the Corporation or any of its Subsidiaries shall (A) default in any payment of any amount or amounts of principal of or interest on any Indebtedness (as defined the Purchase Agreement) the aggregate principal amount of which Indebtedness is in excess of \$1,000,000 or (B) default in the observance or performance of any other agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, as a result of which default or other event or condition the holder or holders or beneficiary or beneficiaries of such Indebtedness or a trustee on their behalf have declared such Indebtedness to be due prior to its stated maturity;

(xii) the effectiveness of the Registration Statement or the ability to use the Prospectus lapses for any reason (including, without limitation, the issuance of a stop order) or such Registration Statement or Prospectus is unavailable for the issuance of Common Shares hereunder, and such lapse or unavailability continues for a period of ten (10) consecutive days or for more than an aggregate of twenty (20) days in any 365-day period;

(xiii) the Corporation breaches any representation, warranty, covenant or other term or condition of any this Certificate of Designations, the Purchase Agreement or the Warrant, except to the extent that such breach, or the event that gave rise to such breach, would not have a Material Adverse Effect (as defined in the Purchase Agreement), and except in the case of a breach of a covenant which is curable, only if such breach remains uncured for a period of at least ten (10) calendar days (the events described in clauses (v), (vi), (viii), (ix), (x), (xi), (xii) and this (xiii) of this Section 9, collectively, the “Trigger Events” and each a “Trigger Event”).

A “Change in Control Transaction” will be deemed to exist if (i) there occurs any consolidation or merger of the Corporation with or into any other corporation or other entity or person (whether or not the Corporation is the surviving corporation), or any other corporate reorganization or transaction or series of related transactions in which in excess of 50% of the Corporation's voting power is transferred through a merger, consolidation, tender offer or similar transaction, (ii) any person (as defined in Section 13(d) of the Exchange Act), together with its affiliates and associates (as such terms are defined in Rule 405 under the Securities Act), beneficially owns or is deemed to beneficially own (as described in Rule 13d-3 under the Exchange Act without regard to the 60-day exercise period) in excess of 50% of the Corporation's voting power (provided, however, that if any person is immediately prior to the Initial Issuance Date a Beneficial Owner of 40% or more of the Corporation's Common Stock, it shall not be deemed to be a Change of Control Transaction if such person increases its Beneficial Ownership percentage by not more than 10 percentage points), (iii) there is a replacement of more than one-half of the members of the Corporation's Board of Directors which is not approved by those individuals who are members of the Corporation's Board of Directors on the date thereof, in one or a series of related transactions or (iv) a sale or transfer of all or substantially all of the assets of the Corporation, determined on a consolidated basis; provided, however that a Change in Control Transaction will not be deemed to have occurred pursuant to clause (iv) if such sale or transfer is the sale or transfer of not more than one business segment during the period from the Initial Issuance Date through the Maturity Date and the Corporation remains a publicly traded corporation and if, on the effective date of the sale or transfer described therein, the Corporation deposits funds in the Escrow Account (as defined in the Purchase Agreement) such that the balance in the Escrow Account after such deposit is the lesser of \$5 million or 100% of the aggregate Liquidation Preference of the outstanding Preferred Shares.

10. Voting Rights. Except as otherwise set forth herein, the Preferred Shares shall not have any voting rights.

11. Rank. All shares of Common Stock shall be of junior rank to all Preferred Shares with respect to the preferences as to dividends, distributions and payments upon a Liquidation Event. The rights of the shares of Common Stock shall be subject to the preferences and relative rights of the Preferred Shares. Without the prior express written consent of the Required Holders, the Corporation shall not hereafter authorize or issue additional or other capital stock that is of senior or pari-passu rank to the Preferred Shares in respect of the preferences as to dividends and other distributions, amortization and redemption payments and payments upon Liquidation Event. The Corporation shall be permitted to issue preferred stock that is junior in rank to the Preferred Shares in respect of the preferences as to dividends and other distributions, amortization and redemption payments and payments upon Liquidation Event, provided, that the maturity date (or any other date requiring redemption, repayment or any other payment, including, without limitation, dividends in respect of any such preferred shares) of any such junior preferred shares is not on or before ninety-one (91) days after the Maturity Date. In the event of the merger or consolidation of the Corporation with or into another corporation, the Preferred Shares shall maintain their relative powers, designations and preferences provided for herein (except that the Preferred Shares may not be pari passu with, or junior to, any capital stock of the successor entity) and no merger shall have a result inconsistent therewith.

12. Participation. The Holders of the Preferred Shares shall be entitled to such dividends paid and distributions made to the holders of Common Stock to the same extent as if such Holders of the Preferred Shares had converted the Preferred Shares into Common Shares (without regard to any limitations on conversion herein or elsewhere) and had held such Common Shares on the record date for such dividends and distributions. Payments under the preceding sentence shall be made concurrently with the dividend or distribution to the holders of Common Stock.

13. Vote to Change the Terms of or Issue Preferred Shares. In addition to any other rights provided by law, except where the vote or written consent of the Holders of a greater number of shares is required by law or by another provision of the Certificate of Incorporation, the affirmative vote at a meeting duly called for such purpose or the written consent without a meeting of the Required Holders, voting together as a single class, shall be required before the Corporation may: (a) amend or repeal any provision of, or add any provision to, this Certificate of Designations, the Certificate of Incorporation or bylaws, or file any articles of amendment, certificate of designations, preferences, limitations and relative rights of any series of preferred stock, if such action would adversely alter or change the preferences, rights, privileges or powers of, or restrictions provided for the benefit of the Preferred Shares, regardless of whether any such action shall be by means of amendment to the Certificate of Incorporation or by merger, consolidation or otherwise; (b) increase or decrease (other than by conversion) the authorized number of shares of Preferred Shares (for the avoidance of doubt, the Corporation may increase or decrease the number of authorized shares of undesignated "blank check" preferred stock); (c) create or authorize (by reclassification or otherwise) any new class or series of shares that has a preference over or is on a parity with the Preferred Shares with respect to dividends or the distribution of assets on a Liquidation Event; (d) purchase, repurchase or redeem any Common Shares or other shares of capital stock of the Corporation; (e) pay dividends or make any other distribution on the Common Stock or any other capital stock of the Corporation or (f) whether or not prohibited by the terms of the Preferred Shares, circumvent a right of the Preferred Shares.

14. Book-Entry. Notwithstanding anything to the contrary set forth herein, upon conversion or redemption of Preferred Shares in accordance with the terms hereof, the Holder thereof shall not be required to physically surrender the certificate representing the Preferred Shares to the Corporation unless (A) the full or remaining number of Preferred Shares represented by the certificate are being converted or redeemed or (B) such Holder has provided the Corporation with prior written notice requesting reissuance of Preferred Shares upon physical surrender of any Preferred Shares. Each Holder and the Corporation shall maintain records showing the number of Preferred Shares so converted or redeemed and the dates of such conversions or redemptions. Notwithstanding the foregoing, if Preferred Shares represented by a certificate are converted or redeemed as aforesaid, a Holder may not transfer the certificate representing the Preferred Shares unless such Holder first physically surrenders the certificate representing the Preferred Shares to the Corporation, whereupon the Corporation will forthwith issue and deliver upon the order of such Holder a new certificate of like tenor, registered as such Holder may request, representing in the aggregate the remaining number of Preferred Shares represented by such certificate. A Holder and any assignee, by acceptance of a certificate, acknowledges and agrees that, by reason of the provisions of this paragraph, following conversion or redemption of any Preferred Shares, the number of Preferred Shares represented by such certificate will be less than the number of Preferred Shares stated on the face thereof. Each certificate for Preferred Shares shall bear the following legend:

ANY TRANSFEREE OF THIS CERTIFICATE SHOULD CAREFULLY REVIEW THE TERMS OF THE CORPORATION'S CERTIFICATE OF DESIGNATIONS RELATING TO THE PREFERRED SHARES REPRESENTED BY THIS CERTIFICATE. THE NUMBER OF PREFERRED SHARES REPRESENTED BY THIS CERTIFICATE MAY BE LESS THAN THE NUMBER OF PREFERRED SHARES STATED ON THE FACE HEREOF PURSUANT TO THE CERTIFICATE OF DESIGNATIONS RELATING TO THE PREFERRED SHARES REPRESENTED BY THIS CERTIFICATE.

15. Taxes.

(a) Any and all payments made by the Corporation hereunder, including any amounts received on a conversion or redemption of the Preferred Shares and any amounts on account of dividends or deemed dividends, must be made by it without any Tax Deduction, unless a Tax Deduction is required by law. If the Corporation is aware that it must make a Tax Deduction (or that there is a change in the rate or the basis of a Tax Deduction) in respect of any payment to any Holder, it must notify such Holders promptly.

(b) If a Tax Deduction for Taxes other than Excluded Taxes (as defined below) is required to be made by the Corporation with respect to any payment to any Holder, the amount of the payment made by the Corporation will be increased to an amount which (after making the Tax Deduction, including any Tax Deduction applicable to additional sums payable pursuant to this Section 15(b)) results in the receipt by such Holder of an amount equal to the payment which would have been due if no Tax Deduction had been required. If the Corporation is required to make a Tax Deduction, it must make any payment required in connection with that Tax Deduction within the time allowed by law. As soon as practicable after making a Tax Deduction or a payment required in connection with a Tax Deduction, the Corporation must deliver to the Holder any official receipt or form, if any, provided by or required by the taxing authority to whom the Tax Deduction was paid. "Excluded Taxes" means (a) Taxes imposed on or measured by the Holder's net income (however denominated), and franchise Taxes imposed on the Holder (in lieu of net income Taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such Holder is a citizen or resident, under the laws of which such Holder is organized, in which the Holder's principal office is located, or in which the Holder is otherwise doing business, (b) any branch profits Taxes imposed by the United States of America or any similar Tax imposed by any other jurisdiction in which the Corporation is located, (c) in the case of a non-US Holder, any withholding Tax that is imposed on amounts payable to such non-US Holder at the time such non-US Holder becomes a Holder (or at such time that such Holder changes its citizenship, residence, place of organization, principal office, or location where doing business) or is attributable to such non-US Holder's failure or inability to comply with any applicable documentation requirements or to provide any documents or certifications that are reasonably requested by the Corporation, and (d) in the case of any Holder, any withholding Tax (including any backup withholding tax) that is imposed on amounts payable to such Holder that is attributable to such Holder's failure or inability to comply with any applicable documentation requirements or to provide any documents or certifications that are reasonably requested by the Corporation.

(c) In addition, the Corporation agrees to pay in accordance with applicable law any present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies that arise from any payment made hereunder or in connection with the execution, delivery, registration or performance of, or otherwise with respect to, the Preferred Shares other than income taxes ("Other Taxes"). As soon as practicable after making a payment of Other Taxes, the Corporation must deliver to such Holder any official receipt or form, if any, provided by or required by the taxing authority to whom such Other Taxes were paid.

(d) The obligations of the Corporation under this Section 15 shall survive the Maturity Date of the Preferred Shares and the payment for the Preferred Shares and all other amounts payable hereunder.

16. Issuance Limitations. The total number of Common Shares issued or issuable hereunder shall not (when aggregated with any Common Shares already issued in respect of all of the Preferred Shares) exceed the maximum number of Common Shares which the Corporation can so issue pursuant to any rule or regulation of the NYSE Amex Equities (or any other Trading Market on which the Common Shares trade) (the "Maximum Share Amount"), subject to equitable adjustments from time to time for stock splits, stock dividends, combinations, capital reorganizations and similar events relating to the Common Shares occurring after the Initial Issuance Date. For the avoidance of doubt, each and every provision of this Certificate of Designations shall remain in full force and effect and the Corporation shall be required to perform its obligations in accordance with the terms hereof notwithstanding the fact that the number of Common Shares issued hereunder may exceed the Maximum Share Amount. Notwithstanding any other provision hereof, no shares of Common Stock in excess of _____ **[19.9% of NBS outstanding common stock less than common stock issued in simultaneous common stock offering and Common Stock issued pursuant to Purchase Agreement] [PLEASE FILL IN]** shares shall be issued by the Corporation hereunder, whether by reason of conversion, redemption or otherwise, and no voting rights may be exercised, until after approval of the shareholders of the Corporation as contemplated by Section 3.14 of the Purchase Agreement.

17. Ownership Cap. Notwithstanding anything to the contrary set forth herein, at no time may the Corporation issue to a Holder, Common Shares if the number of Common Shares to be issued pursuant to such issuance would exceed, when aggregated with all other Common Shares beneficially owned by such Holder at such time (as determined in accordance with Section 13(d) of the Exchange Act and the rules thereunder, including without limitation, Common Shares that would be aggregated with the Holder's beneficial ownership for purpose of determining a group under Section 13(d) of the Exchange Act), the number of Common Shares that would result in the Holder beneficially owning (as determined in accordance with Section 13(d) of the Exchange Act and the rules thereunder, including without limitation, Common Shares that would be aggregated with the Holder's beneficial ownership for purpose of determining a group under Section 13(d) of the Exchange Act) more than 4.9% (the "Beneficial Ownership Limitation") of the then issued and outstanding Common Shares. Each Holder shall have the right (with respect to itself only) to waive the provisions of this Section 17 upon not less than sixty-five (65) days' prior notice to the Corporation. Notwithstanding the foregoing, the Holder shall have the right to: (A) at any time and from time to time immediately reduce the Beneficial Ownership Limitation and (B) (subject to waiver) at any time and from time to time, increase the Beneficial Ownership Limitation immediately in the event of the announcement as pending or planned, of a Change in Control Transaction.

18. Notices. The Corporation shall distribute to the Holders of Preferred Shares copies of all notices, materials, annual and quarterly reports, proxy statements, information statements and any other documents distributed generally to the holders of shares of Common Stock of the Corporation, at such times and by such method as such documents are distributed to such holders of such Common Stock.

19. Replacement Certificates. The certificate(s) representing the Preferred Shares held by any Holder may be exchanged by such Holder at any time and from time to time for certificates with different denominations representing an equal aggregate number of Preferred Shares, as reasonably requested by such Holder, upon surrendering the same. No service charge will be made for such registration or transfer or exchange.

20. Attorneys' Fees. In connection with enforcement by a Holder of any obligation of the Corporation hereunder, the prevailing party shall be entitled to recovery of reasonable attorneys' fees and expenses incurred.

21. No Reissuance. No Preferred Shares acquired by the Corporation by reason of redemption, purchase, conversion or otherwise shall be reissued. Preferred Shares issued and reacquired by the Corporation, whether upon redemption, conversion or otherwise, shall have the status of authorized and unissued undesignated shares of "blank check" preferred stock.

22. Severability of Provisions. If any right, preference or limitation of the Preferred Shares set forth in this Certificate of Designations (as this Certificate of Designations may be amended from time to time) is invalid, unlawful or incapable of being enforced by reason of any rule or law or public policy, all other rights, preferences and limitations set forth in this Certificate of Designations, which can be given effect without the invalid, unlawful or unenforceable right, preference or limitation shall nevertheless remain in full force and effect, and no right, preference or limitation herein set forth be deemed dependent upon any such other right, preference or limitation unless so expressed herein.

23. Limitations. Except as may otherwise be required by law and as are set forth in the Purchase Agreement, the Preferred Shares shall not have any powers, preference or relative participating, optional or other special rights other than those specifically set forth in this Certificate of Designation (as may be amended from time to time) or otherwise in the Certificate of Incorporation of the Corporation.

24. Payments. Any payments required to be made to the Holders in cash hereunder, shall be made by wire transfer of immediately available funds.

Signed on November __, 2010

NEOSTEM, INC.

By: _____

Name:

Title:

EXHIBIT A

(To be Executed by Holder
in order to Convert Preferred Shares)

**CONVERSION NOTICE
FOR
SERIES E 7% SENIOR CONVERTIBLE PREFERRED STOCK**

The undersigned, as a holder ("Holder") of shares of Series E 7% Senior Convertible Preferred Stock ("Preferred Shares") of Neostem, Inc. (the "Corporation"), hereby irrevocably elects to convert _____ Preferred Shares for shares ("Common Shares") of common stock, par value \$0.01 per share (the "Common Stock"), of the Corporation according to the terms and conditions of the Certificate of Designations for the Preferred Shares as of the date written below. The undersigned hereby requests the Common Shares to be issued to the undersigned pursuant to this Conversion Notice be issued in the name of, and delivered via DWAC to, the undersigned or its designee as indicated below. No fee will be charged to the Holder of Preferred Shares for any conversion. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Certificate of Designations.

Conversion Date: _____

Conversion Information: NAME OF HOLDER:

By:
Print Name:
Print Title:

Print Address of Holder:

DWAC Instructions: _____

*If Common Shares are to be issued to a person other than Holder,
Holder's signature must be guaranteed below:*

SIGNATURE GUARANTEED BY:

THE COMPUTATION OF NUMBER OF COMMON SHARES TO BE RECEIVED IS SET FORTH ON PAGE 2 OF THE CONVERSION NOTICE.

(Conversion Date)

(Name of Holder)

COMPUTATION OF NUMBER OF COMMON SHARES TO BE RECEIVED

Number of Preferred Shares converted:	_____ shares	
Number of Preferred Shares converted x Liquidation Preference		\$ _____
Total dollar amount converted		\$ _____
Conversion Price		\$ _____
Number of Common Shares =	<u>Total dollar amount converted</u>	= _____
	Conversion Price	
Number of Common Shares =		_____

Please issue and deliver _____ certificate(s) for Common Shares in the following amount(s):

COMMON STOCK PURCHASE WARRANT

NEOSTEM, INC.

Warrant Shares: _____

Initial Exercise Date: May __, 2011

THIS COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, _____, or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the six month anniversary of the date hereof (the "Initial Exercise Date") and on or prior to the close of business on November __, 2015 (the "Termination Date") but not thereafter, to subscribe for and purchase from Neostem, Inc., a Delaware corporation (the "Company"), up to _____ (_____) shares (as subject to adjustment hereunder, the "Warrant Shares") of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b). This Warrant is the Warrant to purchase Common Stock issued pursuant to the prospectus supplement dated November 16, 2010 and accompanying prospectus (collectively, the "Prospectus") that forms a part of the Registration Statement on Form S-3 (File No. 333-166169) (the "Registration Statement").

Section 1. Definitions. For purposes of this Warrant, the following terms shall have the following meanings:

- a) "Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person as such terms are used in and construed under Rule 405 under the Securities Act.

 - b) "Black Scholes Value" means the value of this Warrant based on the Black and Scholes Option Pricing Model obtained from the "OV" function on Bloomberg using (i) a price per share of Common Stock equal to the Weighted Average Price of the Common Stock for the Trading Day immediately preceding the date of consummation of the applicable Change of Control, (ii) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the remaining term of this Warrant as of the date of consummation of the applicable Fundamental Transaction and (iii) an expected volatility equal to the greater of 60% and the 100-day volatility obtained from the HVT function on Bloomberg determined as of the Trading Day next following the date of the public announcement of the applicable Fundamental Transaction.

 - c) "Change of Control" means any Fundamental Transaction other than (A) any reorganization, recapitalization or reclassification of the Common Stock, in which holders of the Company's voting power immediately prior to such reorganization, recapitalization or reclassification continue after such reorganization, recapitalization or reclassification to hold publicly traded securities and, directly or indirectly, the voting power of the surviving entity or entities necessary to elect a majority of the members of the board of directors (or their equivalent if other than a corporation) of such entity or entities, or (B) pursuant to a migratory merger effected solely for the purpose of changing the jurisdiction of incorporation of the Company.
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d) “Common Stock” means the common stock of the Company, par value \$0.001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

e) “Common Stock Equivalents” means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

f) “Eligible Market” means the The New York Stock Exchange, Inc., The NYSE Amex, The NASDAQ Global Select Market, The NASDAQ Global Market or The NASDAQ Capital Market.

g) “Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

h) “Parent Entity” of a Person means an entity that, directly or indirectly, controls the applicable Person and whose common stock or equivalent equity security is quoted or listed on an Eligible Market, or, if there is more than one such Person or Parent Entity, the Person or Parent Entity with the largest public market capitalization as of the date of consummation of the Fundamental Transaction.

i) “Person” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

j) “Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

k) “Subsidiary” means any subsidiary of the Company and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

l) “Successor Entity” means the Person (or, if so elected by the Holder, the Parent Entity) formed by, resulting from or surviving any Fundamental Transaction or the Person (or, if so elected by the Holder, the Parent Entity) with which such Fundamental Transaction shall have been entered into.

m) “Trading Day” means a day on which the principal Trading Market is open for trading.

n) “Trading Market” means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE AMEX, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange or the OTC Bulletin Board (or any successors to any of the foregoing).

o) “VWAP” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if the OTC Bulletin Board is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the OTC Bulletin Board, (c) if the Common Stock is not then listed or quoted for trading on the OTC Bulletin Board and if prices for the Common Stock are then reported in the “Pink Sheets” published by Pink OTC Markets, Inc. (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Securities then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

Section 2. Exercise.

a) Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company (or such other office or agency of the Company as it may designate by notice in writing to the registered Holder at the address of the Holder appearing on the books of the Company) of a duly executed facsimile copy of the Notice of Exercise Form annexed hereto. Within three (3) Trading Days following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the shares specified in the applicable Notice of Exercise by wire transfer or cashier’s check drawn on a United States bank unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within three (3) Trading Days of the date the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise Form within one (1) Business Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

b) Exercise Price. The exercise price per share of the Common Stock under this Warrant shall be \$1.85, subject to adjustment hereunder (the “Exercise Price”).

c) Cashless Exercise. If at the time of exercise hereof there is no effective registration statement registering, or the prospectus contained therein is not available for the issuance of the Warrant Shares to the Holder and all of the Warrant Shares are not then registered for resale by Holder into the market at market prices from time to time on an effective registration statement for use on a continuous basis (or the prospectus contained therein is not available for use), then this Warrant may also be exercised, in whole or in part, at such time by means of a “cashless exercise” in which the Holder shall be entitled to receive a certificate for the number of Warrant Shares equal to the quotient obtained by dividing $[(A-B) (X)]$ by (A), where:

(A) = the VWAP on the Trading Day immediately preceding the date on which Holder elects to exercise this Warrant by means of a “cashless exercise,” as set forth in the applicable Notice of Exercise;

(B) = the Exercise Price of this Warrant, as adjusted hereunder; and

(X) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

In no event may this warrant be net cash settled.

d) Mechanics of Exercise.

i. Delivery of Certificates Upon Exercise. Certificates for shares purchased hereunder shall be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder’s prime broker with The Depository Trust Company through its Deposit or Withdrawal at Custodian system (“DWAC”) if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by Holder or (B) this Warrant is being exercised via cashless exercise, and otherwise by physical delivery to the address specified by the Holder in the Notice of Exercise by the date that is three (3) Trading Days after the latest of (A) the delivery to the Company of the Notice of Exercise, (B) surrender of this Warrant (if required) and (C) payment of the aggregate Exercise Price as set forth above (including by cashless exercise, if permitted) (such date, the “Warrant Share Delivery Date”). The Warrant Shares shall be deemed to have been issued, and Holder or any other person so designated to be named therein shall be deemed to have become a holder of record of such shares for all purposes, as of the date the Warrant has been exercised, with payment to the Company of the Exercise Price (or by cashless exercise, if permitted) and all taxes required to be paid by the Holder, if any, pursuant to Section 2(d)(vi) prior to the issuance of such shares, having been paid.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the certificate or certificates representing Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder a certificate or the certificates representing the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

iv. Compensation for Buy-In on Failure to Timely Deliver Certificates Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder a certificate or the certificates representing the Warrant Shares pursuant to an exercise on or before the second Trading Day following the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (A) pay in cash to the Holder the amount, if any, by which (x) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

v. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

vi. Charges, Taxes and Expenses. Issuance of certificates for Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such certificate, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event certificates for Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

e) Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within two Trading Days confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon not less than 61 days' prior notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(e), provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any such increase or decrease will not be effective until the 61st day after such notice is delivered to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.

f) Call Provision. Subject to the provisions of Section 2(d) and this Section 2, if, after the Initial Exercise Date, (i) the VWAP for each of 20 consecutive Trading Days (the "Measurement Period," which 20 consecutive Trading Day period shall not have commenced until after the Initial Exercise Date) exceeds \$3.70 (subject to adjustment for forward and reverse stock splits, recapitalizations, stock dividends and the like after the issuance date of this Warrant), (ii) the average daily volume for such Measurement Period exceeds \$100,000 per Trading Day (subject to adjustment for forward and reverse stock splits, recapitalizations, stock dividends and the like after the issuance date of this Warrant) and (iii) the Holder is not in possession of any information that constitutes, or might constitute, material non-public information which was provided by the Company, then the Company may, within 1 Trading Day of the end of such Measurement Period, call for cancellation of all or any portion of this Warrant for which a Notice of Exercise has not yet been delivered (such right, a "Call") for consideration equal to \$0.001 per Share. To exercise this right, the Company must deliver to the Holder an irrevocable written notice (a "Call Notice"), indicating therein the portion of unexercised portion of this Warrant to which such notice applies. If the conditions set forth below for such Call are satisfied from the period from the date of the Call Notice through and including the Call Date (as defined below), then any portion of this Warrant subject to such Call Notice for which a Notice of Exercise shall not have been received by the Call Date will be cancelled at 6:30 p.m. (New York City time) on the tenth Trading Day after the date the Call Notice is sent by the Company (such date and time, the "Call Date"). Any unexercised portion of this Warrant to which the Call Notice does not pertain will be unaffected by such Call Notice. In furtherance thereof, the Company covenants and agrees that it will honor all Notices of Exercise with respect to Warrant Shares subject to a Call Notice that are tendered through 6:30 p.m. (New York City time) on the Call Date. The parties agree that any Notice of Exercise delivered following a Call Notice which calls less than all the Warrants shall first reduce to zero the number of Warrant Shares subject to such Call Notice prior to reducing the remaining Warrant Shares available for purchase under this Warrant. For example, if (A) this Warrant then permits the Holder to acquire 100 Warrant Shares, (B) a Call Notice pertains to 75 Warrant Shares, and (C) prior to 6:30 p.m. (New York City time) on the Call Date the Holder tenders a Notice of Exercise in respect of 50 Warrant Shares, then (x) on the Call Date the right under this Warrant to acquire 25 Warrant Shares will be automatically cancelled, (y) the Company, in the time and manner required under this Warrant, will have issued and delivered to the Holder 50 Warrant Shares in respect of the exercises following receipt of the Call Notice, and (z) the Holder may, until the Termination Date, exercise this Warrant for 25 Warrant Shares (subject to adjustment as herein provided and subject to subsequent Call Notices). Subject again to the provisions of this Section 2(f), the Company may deliver subsequent Call Notices for any portion of this Warrant for which the Holder shall not have delivered a Notice of Exercise. Notwithstanding anything to the contrary set forth in this Warrant, the Company may not deliver a Call Notice or require the cancellation of this Warrant (and any such Call Notice shall be void), unless, from the beginning of the Measurement Period through the Call Date, (1) the Company shall have honored in accordance with the terms of this Warrant all Notices of Exercise delivered by 6:30 p.m. (New York City time) on the Call Date, and (2) a registration statement shall be effective as to all Warrant Shares and the prospectus thereunder available for use by the Company for the sale of all such Warrant Shares to the Holder, and (3) the Common Stock shall be listed or quoted for trading on a Trading Market, and (4) there is a sufficient number of authorized shares of Common Stock for issuance of all shares underlying Warrants, and (5) the issuance of the shares shall not cause a breach of any provision of 2(e) herein (i.e., the Company may only call such portion of the Warrant as to which Holder is entitled to exercise in accordance with Section 2(e)). The Company's right to call the Warrants under this Section 2(f) shall be exercised ratably among the Holders based on each Holder's initial purchase of Warrants from the Company pursuant to the Registration Statements.

Section 3. Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Subsequent Rights Offerings. If the Company, at any time while the Warrant is outstanding, shall issue rights, options or warrants to all holders of Common Stock (and not to the Holder) entitling them to subscribe for or purchase shares of Common Stock at a price per share less than the VWAP on the record date mentioned below, then the Exercise Price shall be multiplied by a fraction, of which the denominator shall be the number of shares of the Common Stock outstanding on the date of issuance of such rights, options or warrants plus the number of additional shares of Common Stock offered for subscription or purchase, and of which the numerator shall be the number of shares of the Common Stock outstanding on the date of issuance of such rights, options or warrants plus the number of shares which the aggregate offering price of the total number of shares so offered (assuming receipt by the Company in full of all consideration payable upon exercise of such rights, options or warrants) would purchase at such VWAP. Such adjustment shall be made whenever such rights, options or warrants are issued, and shall become effective immediately after the record date for the determination of stockholders entitled to receive such rights, options or warrants.

c) Pro Rata Distributions. If the Company, at any time while this Warrant is outstanding, shall distribute to all holders of Common Stock (and not to the Holder) evidences of its indebtedness or assets (including cash and cash dividends) or rights or warrants to subscribe for or purchase any security, then in each such case the Exercise Price shall be adjusted by multiplying the Exercise Price in effect immediately prior to the record date fixed for determination of stockholders entitled to receive such distribution by a fraction of which the denominator shall be the VWAP determined as of the record date mentioned above, and of which the numerator shall be such VWAP on such record date less the then per share fair market value at such record date of the portion of such assets or evidence of indebtedness so distributed applicable to one outstanding share of the Common Stock as determined by the Board of Directors of the Company in good faith. In either case the adjustments shall be described in a statement provided to the Holder of the portion of assets or evidences of indebtedness so distributed or such subscription rights applicable to one share of Common Stock. Such adjustment shall be made whenever any such distribution is made and shall become effective immediately after the record date mentioned above.

d) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock or (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property (each a “Fundamental Transaction”), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of the Holder (without regard to any limitation in Section 2(e) on the exercise of this Warrant), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the “Alternate Consideration”) receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 2(e) on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. Notwithstanding the foregoing, in the event of a Change of Control other than one in which a Successor Entity that is a publicly traded corporation whose stock is quoted or listed for trading on an Eligible Market assumes this Warrant such that the Warrant shall be exercisable for the publicly traded common stock of such Successor Entity, at the request of the Holder delivered before the 90th day after such Change of Control (such a request, a “Black Scholes Exercise”), the Company (or the Successor Entity) shall purchase this Warrant from the Holder by paying to the Holder, within five business days after such request (or, if later, on the effective date of the Fundamental Transaction), cash in an amount equal to the Black Scholes Value of the remaining unexercised portion of this Warrant on the date of such Change of Control.

e) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

f) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly mail to the Holder a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be mailed to the Holder at its last address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to mail such notice or any defect therein or in the mailing thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 4. Transfer of Warrant.

a) Transferability. This Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the initial issuance date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the “Warrant Register”), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

Section 5. Miscellaneous.

a) No Rights as Stockholder Until Exercise. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(d)(i).

b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then, such action may be taken or such right may be exercised on the next succeeding Business Day.

d) Authorized Shares.

The Company covenants that, during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of executing stock certificates to execute and issue the necessary certificates for the Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e) Jurisdiction. This Warrant shall be governed by and construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Warrant shall be governed by, the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York.

f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, will have restrictions upon resale imposed by state and federal securities laws.

g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies.

h) Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the information provided by the Holder to the Company in writing.

i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder or holder of Warrant Shares.

l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and the Holder.

m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

(Signature Page Follows)

IN WITNESS WHEREOF, the Company has caused this Common Stock Purchase Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

NEOSTEM, INC.

By: _____

Name:

Title:

NOTICE OF EXERCISE

TO: NEOSTEM, INC.

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

in lawful money of the United States; or

if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue a certificate or certificates representing said Warrant Shares in the name of the undersigned or in such other name as is specified below:

The Warrant Shares shall be delivered to the following DWAC Account Number or by physical delivery of a certificate to:

[SIGNATURE OF HOLDER]

Name of Investing Entity: _____

Signature of Authorized Signatory of Investing Entity: _____

Name of Authorized Signatory: _____

Title of Authorized Signatory: _____

Date: _____

ASSIGNMENT FORM

(To assign the foregoing warrant, execute this form and supply required information. Do not use this form to exercise the warrant.)

FOR VALUE RECEIVED, [____] all of or [_____] shares of the foregoing Warrant and all rights evidenced thereby are hereby assigned to

_____ whose address is

_____.

Dated: _____, _____

Holder's Signature: _____

Holder's Address: _____

Signature Guaranteed: _____

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatsoever, and must be guaranteed by a bank or trust company. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.

FORM OF COMMON STOCK PURCHASE WARRANT

NEOSTEM, INC.

Warrant Shares: [1,322,486]

Issue Date: November __, 2010

THIS COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, [_____] (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after May __, 2011 (the "Initial Exercise Date") and on or prior to the close of business on the three (3) year anniversary of the Initial Exercise Date (the "Termination Date") but not thereafter, to subscribe for and purchase from Neostem Inc., a Delaware corporation (the "Company"), up to [1,322,486] shares (the "Warrant Shares") of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in that certain Securities Purchase Agreement (the "Purchase Agreement"), dated November 16, 2010, among the Company and the purchasers signatory thereto, as the same may be amended from time to time. Exercise of this Warrant in excess of the amounts permitted under Section 16 of the Certificate of Designations (as defined below) is conditional on approval of the shareholders of the Company as contemplated by Section 3.13 of the Purchase Agreement.

Section 2. Exercise.

(a) Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company of a duly executed facsimile copy of the Notice of Exercise annexed hereto (or such other office or agency of the Company as it may designate by notice in writing to the registered Holder at the address of the Holder appearing on the books of the Company); and, within 3 Trading Days of the date said Notice of Exercise is delivered to the Company, the Company shall have received payment of the aggregate Exercise Price of the shares thereby purchased by wire transfer or cashier's check drawn on a United States bank. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within 3 Trading Days of the date the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise within 1 business day of receipt of such notice. In the event of any dispute or discrepancy, the records of the Holder shall be controlling and determinative in the absence of manifest error. The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.

(b) Exercise Price. The exercise price per share of the Common Stock under this Warrant shall be \$2.0874 subject to adjustment hereunder (the "Exercise Price").

(c) Exercise Elected by Company. To the extent that the Daily VWAP (as defined in the Certificate of Designations) of the Common Stock has remained at least 100% above the Exercise Price (\$4.1748) for 20 Trading Days out of 30 consecutive Trading Days (the "Trigger Period"), but subject to the conditions set forth below, the Company may require the Holder to exercise this Warrant in full upon not less than 10 business days prior written notice ("Mandatory Notice Period") to the registered Holder at the address of the Holder appearing on the books of the Company, stating that the Company is requiring exercise of this Warrant. Exercise by the Holder shall occur in accordance with Section 2(f) herein. Notwithstanding the delivery of a notice pursuant to this Section 2(f), the Holder may exercise of this Warrant at any time during the Mandatory Notice Period. The Company's right to require the exercise of this Warrant shall be subject to the following additional conditions: (i) during each Trading Day of the Trigger Period and during each Trading Day of the Mandatory Notice Period, the Equity Conditions (as defined below) shall be satisfied; and (ii) the Daily VWAP of the Common Stock has remained at least 100% above the Exercise Price during all Trading Days in the Mandatory Notice Period.

As used herein, "Equity Conditions" shall mean each of the following: (i) on each day of the Trigger Period and on each day of the Mandatory Notice Period, all Warrants Shares issuable upon exercise of this Warrant shall be eligible for resale by the Holder without restriction and without need for additional registration under any applicable federal or state securities laws and the Company shall have no knowledge of any fact that would cause any Warrant Shares issuable upon exercise of this Warrant not to be so eligible for resale by the Holder without restriction and without the need for additional registration under any applicable federal or state securities laws; (ii) on each day during the Trigger Period and the Mandatory Notice Period, the Common Stock is designated for listing on a Trading Market (as defined in the Certificate of Designations) and shall not have been suspended from trading on such Trading Market nor shall delisting or suspension by such exchange or market have been threatened or pending in writing by such Trading Market nor shall there be any Securities and Exchange Commission ("SEC") or judicial stop trade order or trading suspension stop order; (iii) any Warrant Shares issuable upon exercise of this Warrant may be issued in full without violating the rules or regulations of the Trading Market or any applicable laws; (iv) on each day during the Trigger Period and the Mandatory Notice Period, there shall not have occurred and be continuing, unless waived by the Holder, either (A) a Trigger Event (as defined in the Certificate of Designations) or (B) an event that with the passage of time or giving of notice would constitute a Trigger Event; (v) on each day during the Trigger Period and the Mandatory Notice Period, the Company has not provided the Holder with any non-public information in breach of Section 3.8 of the Purchase Agreement; (vi) on each day during the Trigger Period and the Mandatory Notice Period, neither the Registration Statement (as defined in the Purchase Agreement) nor the Prospectus (as defined in the Purchase Agreement) nor any Prospectus Supplements (as defined in the Purchase Agreement) contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading and such Registration Statement, such Prospectus and such Prospectus Supplements comply with all applicable securities laws as to form and substance (unless all Common Shares issuable on the applicable Mandatory Redemption Date (or such other date requiring payment in Common Shares) may be resold by the Holder pursuant to Rule 144 under the Securities Act of 1933, as amended (the "Securities Act") without volume limitations or any public information requirements or such other exemption from registration that would permit the Holder to resell such Common Shares without restriction and without need for additional registration under any securities laws); (vii) the Company's transfer agent for the Common Stock is participating in the Depository Trust Company ("DTC") Fast Automated Securities Transfer Program; and (viii) all Warrants Shares issuable upon exercise of this Warrant are duly authorized and will be validly issued, fully paid and non-assessable upon issuance, free and clear of all liens, claims or encumbrances, and the issuance (and Payment of the Exercise Price in accordance with the terms hereof) thereof will not require any further approvals of the Company's Board of Directors or stockholders. All references to the "Registration Statement" or "Prospectus" shall include any amendments or supplements thereto, as filed from time to time, including, without limitation, any Exchange Act (as defined below) filings incorporated by reference.

(d) Cashless Exercise. If at any time after 6 months from the Issue Date, there is no effective registration statement registering issuance of the Warrant Shares to the Holder, or no current prospectus available for, the resale of the Warrant Shares by the Holder, then this Warrant may also be exercised at such time by means of a “Cashless Exercise” (including any exercise required by the Company pursuant to Section 6(c)). Pursuant to such Cashless Exercise, the Holder shall be entitled to receive a certificate for the number of Warrant Shares equal to the quotient obtained by dividing $[(A-B) (X)]$ by (A), where:

(A) = the Daily VWAP (as defined in the Certificate of Designations) on the Trading Day immediately preceding the date of such election;

(B) = the Exercise Price of this Warrant, as adjusted; and

(X) = the number of Warrant Shares issuable upon exercise of this Warrant in accordance with the terms of this Warrant by means of a cash exercise rather than a cashless exercise.

(e) Exercise Limitations.

(i) Holder’s Restrictions. Notwithstanding anything to the contrary contained herein, the Company shall not effect any exercise of this Warrant, and the Holder shall not have the right to exercise any portion of this Warrant, if the number of Warrant Shares to be issued pursuant to such exercise would exceed, when aggregated with all other shares of Common Stock beneficially owned by the Holder at such time (as determined in accordance with Section 13(d) of the Exchange Act and the rules thereunder, including without limitation, shares of Common Stock that would be aggregated with the Holder’s beneficial ownership for purpose of determining a group under Section 13(d) of the Exchange Act), the number of shares of Common Stock that would result in the Holder beneficially owning (as determined in accordance with Section 13(d) of the Exchange Act and the rules thereunder, including without limitation, shares of Common Stock that would be aggregated with the Holder’s beneficial ownership for purpose of determining a group under Section 13(d) of the Exchange Act) more than 4.9% (the “Beneficial Ownership Limitation”) of the then issued and outstanding shares of Common Stock. The provisions of this Section 2(e) may be waived by a Holder upon not less than sixty-five (65) days prior notice to the Company. Notwithstanding the foregoing, the Holder shall have the right to: (A) at any time and from time to time immediately reduce the Beneficial Ownership Limitation and (B) (subject to waiver) at any time and from time to time, increase the Beneficial Ownership Limitation immediately in the event of the announcement as pending or planned, of a Change in Control Transaction (as defined in the Certificate of Designations).

(f) Mechanics of Exercise.

(i) Issuance Limitations. The total number of Warrant Shares issued or issuable hereunder shall not (when aggregated with any Warrant Shares already issued upon exercise of this Warrant and any shares of Common Stock issued upon conversion or redemption of the Preferred Shares) exceed the maximum number of Common Shares which the Company can so issue pursuant to any rule or regulation of the NYSE Amex Equities (or any other Trading Market (as defined in the Certificate of Designations) on which the Common Shares trade) (the "Maximum Share Amount"), subject to equitable adjustments from time to time for stock splits, stock dividends, combinations, capital reorganizations and similar events relating to the Common Shares occurring after the Initial Issuance Date (as defined in the Certificate of Designations).

(ii) Delivery of Certificates Upon Exercise. Certificates for shares purchased hereunder shall be transmitted by the transfer agent of the Company to the Holder by crediting the account of the Holder's prime broker with the Depository Trust Company through its Deposit/Withdrawal at Custodian ("DWAC") system if the Company is a participant in such system and there is an effective Registration Statement permitting the resale of the Warrant Shares by the Holder, and otherwise by physical delivery to the address specified by the Holder in the Notice of Exercise within three (3) Trading Days after the receipt by the Company of the Notice of Exercise, surrender of this Warrant and payment of the aggregate Exercise Price as set forth above ("Warrant Share Delivery Date"). This Warrant shall be deemed to have been exercised on the date the Exercise Price is received by the Company, if such date is after Notice of Exercise and this Warrant are received by the Company. The Warrant Shares shall be deemed to have been issued, and the Holder or any other person so designated to be named therein shall be deemed to have become a holder of record of such shares for all purposes, as of the date the Warrant has been exercised by payment to the Company of the Exercise Price (or by cashless exercise, if permitted) and all taxes required to be paid by the Holder, if any, pursuant to Section 2(f)(vi) prior to the issuance of such shares, have been paid.

(iii) Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the certificate or certificates representing Warrant Shares, deliver to Holder a new Warrant evidencing the rights of Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

(iv) Rescission Rights. If the Company fails to cause its transfer agent to transmit to the Holder a certificate or certificates representing the Warrant Shares pursuant to this Section 2(f)(ii) by the third Trading Day immediately following the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

(v) Compensation for Buy-In on Failure to Timely Deliver Certificates Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause its transfer agent to transmit to the Holder a certificate or certificates representing the Warrant Shares pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (1) pay in cash to the Holder the amount by which (x) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (A) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (B) the price at which the sell order giving rise to such purchase obligation was executed, and (2) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case the Company shall promptly return the Exercise Price for such Warrant Shares to the Holder) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (1) of the immediately preceding sentence the Company shall be required to pay the Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

(vi) No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which Holder would otherwise be entitled to purchase upon such exercise, the Company shall at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

(vii) Charges, Taxes and Expenses. Issuance of certificates for Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such certificate, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event certificates for Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto duly executed by the Holder; and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto.

(g) Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

Section 3. Certain Adjustments. At any time while this Warrant is outstanding, the Exercise Price shall be subject to adjustment from time to time as follows (but shall not be increased, other than pursuant to Section 3(a) hereof):

(a) Adjustments for Stock Splits and Combinations. If the Company shall at any time or from time to time effect a stock split of the outstanding Common Stock, the Exercise Price in effect immediately prior to the stock split shall be proportionately decreased. If the Company shall at any time or from time to time, combine the outstanding shares of Common Stock, the Exercise Price in effect immediately prior to the combination shall be proportionately increased. Any adjustments under this Section 3(a) shall be effective at the close of business on the date the stock split or combination occurs.

(b) Adjustments for Certain Dividends and Distributions. If the Company shall at any time or from time to time make or issue or set a record date for the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in shares of Common Stock, then, and in each event, the Exercise Price in effect immediately prior to such event shall be decreased as of the time of such issuance or, in the event such record date shall have been fixed, as of the close of business on such record date, by multiplying the Exercise Price then in effect by a fraction:

(i) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date; and

(ii) the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution.

(c) Adjustment for Other Dividends and Distributions. If the Company shall at any time or from time to time make or issue or set a record date for the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in securities or other property other than shares of Common Stock, then, and in each event, an appropriate revision to the Exercise Price shall be made and provision shall be made (by adjustments of the Exercise Price or otherwise) so that Holder shall receive upon exercise of this Warrant, in addition to the number of Warrant Shares issuable upon such exercise, the number of securities of the Company or other issuer (as applicable) or other property that the Holder would have received had this Warrant been exercisable into Common Stock on the date of such event; provided, however, that if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Exercise Price shall be adjusted pursuant to this Section 3(c) as of the time of actual payment of such dividends or distributions.

(d) Adjustments for Reclassification, Exchange or Substitution. If the Common Stock at any time or from time to time after the Closing Date shall be changed to the same or different number of shares or other securities of any class or classes of stock or other property, whether by reclassification, exchange, substitution or otherwise (other than by way of a stock split or combination of shares or stock dividends provided for in Sections 3(a), 3(b) and 3(c), or a Corporate Event provided for in Section 3(e), then, and in each event, an appropriate revision to the Exercise Price shall be made and provisions shall be made (by adjustments of the Exercise Price or otherwise) so that the Holder shall have the right thereafter to exercise this Warrant for the kind and amount of shares of stock or other securities or other property receivable upon reclassification, exchange, substitution or other change, by holders of the number of shares of Common Stock into which this Warrant might have been exercised immediately prior to such reclassification, exchange, substitution or other change, all subject to further adjustment as provided herein.

(e) Other Corporate Events. Prior to the consummation of any Change of Control pursuant to which holders of shares of Common Stock are entitled to receive securities or other assets with respect to or in exchange for shares of Common Stock (a "Corporate Event"), the Company shall make appropriate provision to insure that the Holder will thereafter have the right to receive upon exercise of this Warrant, in substitution for the shares of Common Stock issuable upon exercise of this Warrant, such securities or other assets to which the Holder would have been entitled with respect to such shares of Common Stock had such shares of Common Stock been held by the Holder upon the consummation of such Corporate Event (without taking into account any limitations or restrictions on the exercisability of this Warrant). Provisions made pursuant to the preceding sentence shall be in a form and substance reasonably satisfactory to the Holder. The provisions of this Section 3(e) shall apply similarly and equally to successive Corporate Events and shall be applied without regard to any limitations on the exercisability of this Warrant.

(f) Adjustments for Issuance of Additional Shares of Common Stock. In the event the Company shall issue or sell any additional shares of Common Stock (otherwise than as provided in the foregoing subsections (a) through (e) of this Section 3 or pursuant to Common Stock Equivalents (as defined below) granted or issued on or prior to the Closing Date) (for the avoidance of doubt, this Section 3(f) shall apply to the issuance and sale of the shares of Common Stock under the Equity Line (as defined in the Certificate of Designations)) (the "Additional Shares of Common Stock"), at a price per share less than the Exercise Price then in effect, or without consideration, the Exercise Price then in effect upon each such issuance shall be adjusted to that price (rounded to the nearest cent) determined by multiplying the Exercise Price by a fraction:

(i) the numerator of which shall be equal to the sum of (A) the number of shares of Common Stock outstanding immediately prior to the issuance of such Additional Shares of Common Stock plus (B) the number of shares of Common Stock (rounded to the nearest whole share) which the aggregate consideration for the total number of such Additional Shares of Common Stock so issued would purchase at a price per share equal to the then Exercise Price, and

(ii) the denominator of which shall be equal to the number of shares of Common Stock outstanding immediately after the issuance of such Additional Shares of Common Stock.

(iii) No adjustment of the number of shares of Common Stock shall be made under this Section 3(f) upon the issuance of any Additional Shares of Common Stock which are issued pursuant to the exercise of any warrants or other subscription or purchase rights or pursuant to the exercise of any conversion or exchange rights in any Common Stock Equivalents (as defined below), if any such adjustment shall previously have been made upon the issuance of such warrants or other rights or upon the issuance of such Common Stock Equivalents (or upon the issuance of any warrant or other rights therefore) pursuant to Section 3(g).

(g) Issuance of Common Stock Equivalents. If (a) the Company, at any time after the Closing Date, shall issue any securities convertible into or exchangeable for, directly or indirectly, Common Stock ("Convertible Securities"), or (b) any rights or warrants or options to purchase any such Common Stock or Convertible Securities (collectively, the "Common Stock Equivalents") shall be issued or sold and if the sum of the price for which such Common Stock Equivalents are sold (on a per Common Share Basis) plus the price per share for which Additional Shares of Common Stock may be issuable pursuant to any such Common Stock Equivalent shall be less than the Exercise Price then in effect, or if, after any such issuance of Common Stock Equivalents, the price per share for which Additional Shares of Common Stock may be issuable thereafter is amended or adjusted, and the sum of such issuance price plus such price as so amended shall be less than the Exercise Price in effect at the time of such amendment or adjustment, then the Exercise Price, upon each such issuance or amendment, shall be adjusted as provided in Section 3(f). No adjustment shall be made to the Exercise Price upon the issuance of Common Stock pursuant to the exercise, conversion or exchange of any Convertible Security or Common Stock Equivalent where an adjustment to the Exercise Price was made as a result of the issuance or purchase of any Convertible Security or Common Stock Equivalent.

(h) Certain Issues Excepted. There shall be no adjustment to the Exercise Price pursuant to Section 3(f) or Section 3(g) with respect to the sale or issuance of Excluded Securities (as defined in the Certificate of Designations).

(i) Calculation of Consideration Received. In case any Common Stock Equivalents are issued in connection with the issue or sale of other securities of the Company, together comprising one integrated transaction in which no specific consideration is allocated to such Common Stock Equivalents by the parties thereto, the Common Stock Equivalents will be deemed to have been issued for a consideration of \$0.01. If any shares of Common Stock, Common Stock Equivalents or Convertible Securities are issued or sold or deemed to have been issued or sold for cash, the consideration received therefor will be deemed to be the gross proceeds received by the Company therefor. If any shares of Common Stock, Common Stock Equivalents or Convertible Securities are issued or sold for a consideration other than cash, the amount of such consideration received by the Company will be the fair value of such consideration, except where such consideration consists of publicly traded securities, in which case the amount of consideration received by the Company will be the closing sale price of such security on the date of receipt. If any shares of Common Stock, Common Stock Equivalents or Convertible Securities are issued to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving entity, the amount of consideration therefor will be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock, Common Stock Equivalents or Convertible Securities, as the case may be. The fair value of any consideration other than cash or publicly traded securities will be determined jointly by the Company and the Holder. If such parties are unable to reach agreement within ten (10) days after the occurrence of an event requiring valuation (the "Valuation Event"), the fair value of such consideration will be determined within twenty (20) Trading Days after the tenth day following the Valuation Event by an independent, reputable appraiser jointly selected by the Company and the Holders. The determination of such appraiser shall be final and binding upon all parties absent manifest error or fraud and the fees and expenses of such appraiser shall be borne by the Company.

(j) Adjustment to Warrant Shares. Upon each such adjustment of the Exercise Price hereunder, the number of Warrant Shares shall be adjusted to the number of shares of Common Stock determined by multiplying the Exercise Price in effect immediately prior to such adjustment by the number of Warrant Shares acquirable upon exercise of this Warrant immediately prior to such adjustment and dividing the product thereof by the Exercise Price resulting from such adjustment.

(k) Certificates as to Adjustments. Upon occurrence of each adjustment or readjustment of the Exercise Price or number of shares of Common Stock issuable upon conversion of this Warrant pursuant to this Section 3, the Company at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to the Holder a certificate setting forth such adjustment and readjustment, showing in detail the facts upon which such adjustment or readjustment is based. The Company shall, upon written request of the Holder, at any time, furnish or cause to be furnished to the Holder a like certificate setting forth such adjustments and readjustments, the Exercise Price in effect at the time, and the number of shares of Common Stock and the amount, if any, of other securities or property which at the time would be received upon the exercise of this Warrant. Notwithstanding the foregoing, the Company shall not be obligated to deliver a certificate unless such certificate would reflect an increase or decrease of at least one percent (1%) of such adjusted amount. If the adjustment is not made because the adjustment does not change the applicable Exercise Price by more than one percent (1%), then the adjustment that is not made will be carried forward and taken into account in any future adjustment. Notwithstanding the foregoing, all such carried forward adjustments shall be made to the Exercise Price when they add up to one percent (1%).

(l) Participation. The Holder, as the holder of this Warrant, shall be entitled to receive such dividends paid and distributions made to the holders of Common Stock to the same extent as if the Holder had exercised this Warrant into Common Stock (without regard to any limitations on exercise herein or elsewhere) and had held such shares of Common Stock on the record date for such dividends and distributions. Payments under the preceding sentence shall be made concurrently with the dividend or distribution to the holders of Common Stock.

(m) Notice to Allow Exercise by Holder. If (A) the Company shall declare a redemption of the Common Stock; (B) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights; (C) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, of any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property; or (D) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company; then, in each case, the Company shall cause to be mailed to the Holder at its last address as it shall appear upon the Warrant Register of the Company, a notice stating (x) the date on which a record is to be taken for the purpose of such redemption, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such redemption are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange or (z) the date of such dissolution, liquidation or winding up of the affairs of the Company; provided that the failure to mail such notice or any defect therein or in the mailing thereof shall not affect the validity of the corporate action required to be specified in such notice. Subject to applicable law and notwithstanding anything herein to the contrary, the Holder shall be provided a reasonable opportunity (which shall be not less than eight (8) calendar days notice) to exercise this Warrant prior to the effective date of the event triggering such notice. Notwithstanding the foregoing, the delivery of the notice described in this Section 3(m) is not intended to and shall not bestow upon the Holder any voting rights whatsoever with respect to outstanding unexercised Warrants.

Section 4. Transfer of Warrant.

(a) Transferability. Subject to compliance with any applicable securities laws and the conditions set forth in Section 4(d) hereof, this Warrant and all rights hereunder are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. A Warrant, if properly assigned, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

(b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the original Issue Date and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

(c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the “Warrant Register”), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

(d) Transfer Restrictions. If, at the time of the surrender of this Warrant in connection with any transfer of this Warrant, the transfer of this Warrant shall not be registered pursuant to an effective registration statement under the Securities Act and under applicable state securities or blue sky laws, the Company may require, as a condition of allowing such transfer, that the Holder or transferee of this Warrant, as the case may be, furnish to the Company a written opinion of counsel reasonably satisfactory to the Company (which opinion shall be in form, substance and scope customary for opinions of counsel in comparable transactions) to the effect that such transfer may be made without registration under the Securities Act, (ii) that the transferor or transferee execute and deliver to the Company an investment letter in form and substance reasonably acceptable to the Company and (iii) that the transferee be an “accredited investor” as defined in Rule 501(a)(1), (a)(2), (a)(3), (a) (7), or (a)(8) promulgated under the Securities Act or a qualified institutional buyer as defined in Rule 144A(a)(1) promulgated under the Securities Act.

Section 5. Transferability.

(a) Conditions for Transfer. The Holder agrees and acknowledges that this Warrant may not be sold, transferred, assigned or hypothecated by the Holder except in compliance with the provisions of the Securities Act and any applicable State securities or “blue sky” laws. The Holder further represents to the Company, by accepting this Warrant, that it has full power and authority to accept this Warrant and make the representations set forth herein.

Section 6. Miscellaneous.

(a) No Rights as Stockholder Until Exercise. Except as set forth in Section 3(l), this Warrant does not entitle the Holder to any voting rights or other rights as a stockholder of the Company prior to the exercise hereof. Upon the surrender of this Warrant and the payment of the aggregate Exercise Price, the Warrant Shares so purchased shall be and be deemed to be issued to such Holder as the record owner of such shares as of the close of business on the later of the date of such surrender and payment.

(b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

(c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a business day, then such action may be taken or such right may be exercised on the next succeeding business day.

(d) Authorized Shares. The Company covenants that during the period the Warrant is outstanding and exercisable, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of executing stock certificates to execute and issue the necessary certificates for the Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market (as defined in the Certificate of Designations) upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

The Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (a) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (b) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant, and (c) use its reasonable best efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof as may be necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

(e) Governing Law and Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant or actions, disputes or proceedings arising out or related to this Warrant shall be determined in accordance with the provisions of the Purchase Agreement.

(f) Nonwaiver. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice Holder's rights, powers or remedies, notwithstanding the fact that all rights hereunder terminate on the Termination Date.

(g) Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Purchase Agreement.

(h) Limitation of Liability. No provision hereof, in the absence of any affirmative action by Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of Holder, shall give rise to any liability of Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

(i) Remedies. Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

(j) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of all Holders from time to time of this Warrant and shall be enforceable by any such Holder or holder of Warrant Shares.

(k) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and the Holder.

(l) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

(m) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

[Remainder of Page Left Blank Intentionally]

IN WITNESS WHEREOF, the Company has caused this Warrant to be duly executed by its duly authorized officer as of the date first above indicated.

NEOSTEM, INC.

By: _____

Signature Page to Warrant

NOTICE OF EXERCISE

TO: [_____]

1. The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.
2. Payment shall be made in lawful money of the United States.
3. Please issue a certificate or certificates representing said Warrant Shares in the name of the undersigned or in such other name as is specified below:

The Warrant Shares shall be delivered by physical delivery of a certificate to:

4. Accredited Investor. The undersigned is an “accredited investor” as defined in Regulation D promulgated under the Securities Act of 1933, as amended.

[SIGNATURE OF HOLDER]

Name of Investing Entity: _____

Signature of Authorized Signatory of Investing Entity: _____

Name of Authorized Signatory: _____

Title of Authorized Signatory: _____

Date: _____

ASSIGNMENT FORM

(To assign the foregoing warrant, execute this form and supply required information. Do not use this form to exercise the warrant.)

FOR VALUE RECEIVED, [____] all of or [_____] shares of the foregoing Warrant and all rights evidenced thereby are hereby assigned to _____ whose address is _____.

Dated: _____, _____

Holder's Signature:

Holder's Address:

Signature Guaranteed: _____

NOTE: The signature to this Assignment Form must correspond with the name as it appears on the face of the Warrant, without alteration or enlargement or any change whatsoever, and must be guaranteed by a bank or trust company. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Warrant.

[Lowenstein Sandler PC Letterhead]

November 16, 2010

NeoStem, Inc.
420 Lexington Avenue, Suite 450
New York, New York 10170

Re: Shelf Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as special counsel for NeoStem, Inc., a Delaware corporation (the "Company"), in connection with the preparation and filing of a Registration Statement on Form S-3 (File No. 333-166169) (the "Registration Statement") with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act"), and the rules and regulations promulgated thereunder, and declared effective by the Commission on May 11, 2010, the prospectus, dated May 19, 2010 (the "Prospectus") and two prospectus supplements described below, each filed with the Commission pursuant to Rule 424(b) of the rules and regulations of the Securities Act on November 16, 2010 (each, a "Prospectus Supplement").

The first Prospectus Supplement pertains to an underwritten offering (the "Underwritten Offering Prospectus Supplement") pursuant to the Underwriting Agreement dated the date hereof between the Company and the underwriters named therein (the "Underwriting Agreement") and relates to the issuance and sale by the Company of 6,337,980 units (the "Underwritten Units"), with each Underwritten Unit consisting of one share of the common stock (each, an "Underwritten Share"), par value \$0.001 per share, of the Company ("Common Stock") and a warrant (collectively, the "Underwritten Warrants") to purchase 0.50 of a share of Common Stock. The Underwritten Offering Prospectus Supplement also covers the 3,168,990 shares of Common Stock issuable from time to time upon exercise of the Underwritten Warrants (collectively, the "Underwritten Offering Warrant Shares").

We understand that the Underwritten Units are to be sold, as described in the Registration Statement, the Prospectus and the Underwritten Offering Prospectus Supplement, pursuant to the Underwriting Agreement filed as Exhibit 1.1 to the Current Report on Form 8-K to which this opinion is attached as Exhibit 5.1. We further understand that the Underwritten Units will not be issued or certificated; the Underwritten Shares and the Underwritten Warrants are immediately separable and will be issued separately, but will be purchased together in the Underwritten Offering.

The second Prospectus Supplement (the "Preferred Offering Prospectus Supplement") relates to the issuance and sale by the Company of 10,582,011 units (the "Preferred Offering Units"), with each Preferred Offering Unit consisting of (i) one share of Series E 7% Senior convertible Preferred Stock, par value \$0.01 per share, of the Company (the "Preferred Shares"), (ii) a warrant (collectively, the "Preferred Offering Warrants") to purchase 0.25 of a share of Common Stock, and (iii) 0.0155 of a share of Common Stock (collectively, the "Preferred Offering Common Shares"). The Preferred Offering Prospectus Supplement also covers the 1,322,486 shares of Common Stock issuable from time to time upon exercise of the Preferred Offering Warrants (collectively, the "Preferred Offering Warrant Shares"), and the shares of Common Stock issuable from time to time upon conversion of redemption of the Preferred Shares (collectively, the "Conversion / Redemption Shares").

We understand that the Preferred Offering Units are to be sold, as described in the Registration Statement, the Prospectus and the Preferred Offering Prospectus Supplement, to investors (each, a "Purchaser") pursuant to definitive securities purchase agreements entered into among the Company, JGB Management Inc. and each of the Purchasers, dated as of November 16, 2010 (the "Securities Purchase Agreements"), substantially in the form filed as Exhibit 10.1 to the Current Report on Form 8-K to which this opinion is attached as Exhibit 5.1. We further understand that the Preferred Offering Units will not be issued or certificated; the Preferred Shares, the Preferred Offering Warrants and the Preferred Offering Common Shares are immediately separable and will be issued separately, but will be purchased together in the Preferred Offering.

In connection with this opinion, we have examined the Registration Statement, the Prospectus, the Underwritten Offering Prospectus Supplement and the Preferred Offering Prospectus Supplement. We also have examined such corporate records, certificates and other documents and such questions of law as we have considered necessary or appropriate for the purpose of this opinion. We have assumed: (A) the genuineness and authenticity of all documents submitted to us as originals and (B) the conformity to originals of all documents submitted to us as copies thereof. As to certain factual matters, we have relied upon certificates of officers of the Company and have not sought independently to verify such matters.

Based on the foregoing, and subject to the assumptions, limitations and qualifications set forth herein, we are of the opinion that:

1. the issuance and sale of the Underwritten Units, and the Underwritten Shares and the Underwritten Warrants included therein, has been duly authorized and, when issued and sold in the manner described in the Registration Statement, the Prospectus and the Underwritten Offering Prospectus Supplement and in accordance with the Underwriting Agreement, the Underwritten Units, and the Underwritten Shares and the Underwritten Warrants included therein, will be validly issued, fully paid and non-assessable;

2. the Underwritten Offering Warrant Shares have been duly authorized and, when issued in the manner described in the Registration Statement, the Prospectus and the Underwritten Offering Prospectus Supplement and in accordance with the terms and conditions of the Underwritten Warrants (including the due payment of any exercise price therefor specified in the Underwritten Warrants), the Underwritten Offering Warrant Shares will be validly issued, fully paid and non-assessable;

3. the issuance and sale of the Preferred Offering Units, and the Preferred Shares, the Preferred Offering Warrants and the Preferred Offering Common Shares included therein, has been duly authorized and, when issued and sold in the manner described in the Registration Statement, the Prospectus and the Preferred Offering Prospectus Supplement and in accordance with the Securities Purchase Agreements, the Preferred Offering Units, and the Preferred Shares, the Preferred Offering Warrants and the Preferred Offering Common Shares included therein, will be validly issued, fully paid and non-assessable;

4. the Preferred Offering Warrant Shares have been duly authorized and, when issued in the manner described in the Registration Statement, the Prospectus and the Preferred Offering Prospectus Supplement in accordance with the terms and conditions of the Preferred Offering Warrants (including the due payment of any exercise price therefor specified in the Preferred Offering Warrants), the Preferred Offering Warrant Shares will be validly issued, fully paid and non-assessable; and

5. the Conversion / Redemption Shares have been duly authorized and, when issued in accordance with the terms and conditions of the Certificate of Designations applicable to the Preferred Shares, the Conversion / Redemption Shares will be validly issued, fully paid and non-assessable.

Our opinion is limited to the federal laws of the United States and to the Delaware General Corporation Law. We express no opinion as to the effect of the law of any other jurisdiction. Our opinion is rendered as of the date hereof, and we assume no obligation to advise you of changes in law or fact (or the effect thereof on the opinions expressed herein) that hereafter may come to our attention.

We hereby consent to the inclusion of this opinion as an exhibit to the Registration Statement and to the references to our firm therein and in the Prospectus, the Underwritten Offering Prospectus Supplement and the Preferred Offering Prospectus Supplement under the caption "Legal Matters." In giving our consent, we do not admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations thereunder.

Very truly yours,
/s/
Lowenstein Sandler PC

SECURITIES PURCHASE AGREEMENT

Dated as of November 16, 2010

by and among

Neostem, Inc., JGB Management Inc.

and

THE PURCHASERS LISTED ON EXHIBIT A

SECURITIES PURCHASE AGREEMENT

This SECURITIES PURCHASE AGREEMENT dated as of November 16, 2010 (this "Agreement") is by and among Neostem, Inc., a Delaware corporation (the "Company"), each of the purchasers whose names are set forth on Exhibit A attached hereto (each a "Purchaser" and collectively, the "Purchasers"), and JGB Management Inc., the Purchaser Representative (as defined herein), only with respect to Section 3.7(a) and Article 6.

WHEREAS:

A. The Company has authorized convertible preferred stock of the Company designated as "7% Senior Convertible Preferred Stock", the terms of which are set forth in the certificate of designation for such series of preferred stock (the "Certificate of Designations") in the form attached hereto as Exhibit B (together with any convertible preferred shares issued in replacement thereof in accordance with the terms thereof, the "Preferred Shares"), which Preferred Shares shall be convertible into the Company's common stock, par value \$0.0001 per share (the "Common Stock"), in accordance with the terms of the Certificate of Designations (as converted, collectively, the "Conversion Shares").

B. The Preferred Shares shall be mandatorily redeemed by the Company in accordance with the Certificate of Designations and the redemption price therefor shall be paid either in cash or shares of Common Stock (the "Redemption Shares").

C. Each Purchaser wishes to purchase, and the Company wishes to sell, upon the terms and conditions stated in this Agreement, (i) that aggregate number of Preferred Shares set forth opposite such Purchaser's name in Exhibit A hereto (which aggregate number for all Purchasers shall be 10,582,011 (the "Total Subscription Amount")); (ii) a Warrant representing the right to acquire initially up to that number of additional shares of Common Stock set forth opposite such Purchaser's name on Exhibit A (the "Warrants"), in substantially the form attached hereto as Exhibit C (as exercised, collectively, the "Warrant Shares"); and (iii) the number of shares of Common Stock (the "Common Shares") set forth opposite such Purchaser's Name on Exhibit A.

D. The Preferred Shares, the Conversion Shares, the Redemption Shares, the Common Shares, the Warrants and the Warrant Shares are collectively referred to herein as the "Securities".

E. The Company has engaged Cowen and Company, LLC and LifeTech Capital, a division of Aurora Capital, LLC as its exclusive placement agents (the "Placement Agents") for the offering of the Securities on a "best efforts" basis.

The parties hereto agree as follows:

ARTICLE 1

PURCHASE AND SALE OF SECURITIES

1.1. Purchase and Sale of Securities.

(a) Purchase and Sale of Securities. Subject to the satisfaction (or waiver) of the conditions set forth herein, the Company shall issue and sell to each Purchaser, and each Purchaser severally, but not jointly, agrees to purchase from the Company on the Closing Date (as defined below), (i) the number of Preferred Shares as is set forth opposite such Purchaser's name in Exhibit A; (ii) Warrants to acquire initially up to that number of Warrant Shares as is set forth opposite such Purchaser's name as set forth in Exhibit A; and (iii) the number of Common Shares set forth opposite such Purchaser's name in Exhibit A. The aggregate purchase price for the Securities shall be \$10,000,000.

(b) The Company has filed with the Securities and Exchange Commission (the "Commission") a registration statement on Form S-3 (File No. 333-166169) (the "Registration Statement"), including the prospectus contained therein (the "Base Prospectus"), relating to securities (the "Shelf Securities"), including the Securities to be issued from time to time by the Company. The offering and sale of the Securities (the "Offering") are being made pursuant to (a) the Registration Statement and the Base Prospectus and (b) one or more prospectus supplements (the "Prospectus Supplements") and the Base Prospectus, the "Prospectus") containing certain supplemental information regarding the Securities and the terms of the Offering that has been or will be filed with the Commission and delivered to the Purchasers (or made available to the Purchasers by the filing by the Company of an electronic version thereof with the Commission).

1.2. Purchase Price and Closing. (a) Subject to the terms and conditions of this Agreement, the Company agrees to issue and sell to each Purchaser and, in consideration of and in express reliance upon the representations, warranties, covenants, terms and conditions of this Agreement, each Purchaser, severally but not jointly, agrees to purchase the Preferred Shares, Common Shares, and Warrants set forth opposite such Purchaser's name on Exhibit A for the amount to be paid by such Purchaser for the Preferred Shares, Common Shares, and Warrants as specified on Exhibit A (as to each Purchaser, the "Subscription Amount"). At the Closing (as defined below) under this Agreement, each Purchaser shall deliver (i) 67.5% of the Subscription Amount by wire transfer of immediately available funds to the Company; (ii) 7.5% of the Subscription Amount by wire transfer of immediately available funds to Cowen and Company, LLC as representative of the Placement Agents; and (iii) 25% of the Subscription Amount (the "Escrow Amount") to Wells Fargo Bank, National Association, as escrow agent (the "Escrow Agent") pursuant to the terms of that certain Escrow Agreement between the Company, the Purchasers, and the Escrow Agent (the "Escrow Agreement") in the form annexed hereto as Exhibit D. The Purchase Price shall be allocated to the Preferred Shares, the Common Shares, and the Warrants based on their relative fair-market values, as determined by the Purchasers

(b) The Closing under this Agreement (the "Closing") shall take place on or before November 19, 2010 (the "Closing Date"), *provided*, that all of the conditions set forth in Article 4 hereof have been fulfilled or waived in accordance herewith. The Closing shall take place at the offices of Kleinberg, Kaplan, Wolff & Cohen, P.C., 551 Fifth Avenue, 18th Floor, New York, New York 10176 at 10:00 a.m. Eastern Standard Time, or at such other time and place as the parties may agree. Subject to the terms and conditions of this Agreement, at the Closing the Purchasers shall purchase and the Company shall issue and deliver or cause to be delivered to each Purchaser the Preferred Shares, Common Shares, and Warrants for the applicable amounts set forth opposite the name of such Purchaser on Exhibit A hereto. Also at the Closing, the Company shall issue and deliver the Preferred Shares, Common Shares, and Warrants in the applicable percentages set forth opposite the names of such Purchaser on Exhibit A hereto.

ARTICLE 2

REPRESENTATIONS AND WARRANTIES

2.1. Representations and Warranties of the Company. Except as otherwise disclosed or incorporated by reference and readily apparent in the Company's Prospectus Supplement, Prospectus, Annual Report on Form 10-K for the year ended December 31, 2009 (the "Form 10-K"), any quarterly or current report, or proxy statement filed by the Company with the Commission pursuant to the reporting requirements of the Exchange Act subsequent to the filing of the Form 10-K and prior to the date of this Agreement (in each case, including any supplements or amendments thereto) (the "Reports"), the Company hereby represents and warrants to the Purchasers and the Placement Agents, as of the date of this Agreement and as of the Closing Date as follows:

(a) Organization, Good Standing and Power. The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and has the requisite corporate power to own, lease and operate its properties and assets and to conduct its business as it is now being conducted. The Company and each such Subsidiary (as defined below) is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing would not, individually or in the aggregate, reasonably be expected to have or result in a Material Adverse Effect (as defined below). For the purposes of this Agreement, "Material Adverse Effect" means any material adverse effect on the business, operations, properties, prospects, or condition (financial or otherwise) of the Company and its Subsidiaries taken as a whole and/or any condition, circumstance, or situation that would prohibit in any material respect the ability of the Company to perform any of its obligations under this Agreement or any of the Transaction Documents (as defined below) in any material respect.

(b) Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and perform this Agreement, the Certificate of Designations, the Escrow Agreement, and the Warrants (collectively, the "Transaction Documents") and to issue and sell the Preferred Shares, Common Shares, and Warrants in accordance with the terms hereof. The execution, delivery and performance of the Transaction Documents by the Company and the consummation by it of the transactions contemplated thereby have been duly and validly authorized by all necessary corporate action, and no further consent or authorization of the Company or its Board of Directors or stockholders is required, provided however that the Company must obtain any stockholder approval as may be required by the NYSE Amex. When executed and delivered by the Company, each of the Transaction Documents shall constitute a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, reorganization, moratorium, liquidation, conservatorship, receivership or similar laws relating to, or affecting generally the enforcement of, creditor's rights and remedies or by other equitable principles of general application.

(c) Capitalization. The authorized capital stock and the issued and outstanding shares of capital stock of the Company as of the date of this Agreement is set forth in the Prospectus Supplement. All of the outstanding shares of the Common Stock and any other outstanding security of the Company have been duly and validly authorized. No shares of Common Stock or any other security of the Company were issued in violation of any preemptive rights and there are no outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, any shares of capital stock of the Company. Furthermore, there are no equity plans, contracts, commitments, understandings, or arrangements by which the Company is or may become bound to issue additional shares of the capital stock of the Company or options, securities or rights convertible into shares of capital stock of the Company, except as set forth on Schedule 2.1(e). The Company is not a party to or bound by any agreement or understanding granting registration or anti-dilution rights to any person or entity with respect to any of its equity or debt securities, except where such registration or anti-dilution rights pursuant to such agreements individually or in the aggregate, have not had or reasonably would be expected to have a Material Adverse Effect. Except for customary transfer restrictions contained in agreements entered into by the Company in order to sell restricted securities and any voting and lock-up agreements entered into in connection with the transactions contemplated by that certain Agreement and Plan of Merger, dated September 23, 2010, by and among the Company, NBS Acquisition Company LLC and Progenitor Cell Therapy, LLC (the “PCT Merger”) and the concurrent common stock offering, the Company is not a party to, and it has no knowledge of, any agreement or understanding restricting the voting or transfer of any shares of the capital stock of the Company. For purposes of this Section 2.1 “knowledge” means the actual or constructive knowledge of the Company.

(d) Issuance of Securities. The Preferred Shares, Common Shares, and Warrants to be issued at the Closing have been duly authorized by all necessary corporate action and, when paid for or issued in accordance with the terms hereof, the Securities shall be validly issued and outstanding, fully-paid, non-assessable and free any clear of all Liens (as defined below) of any pre-emptive rights and rights of refusal of any kind. When the Preferred Shares and Warrants are issued and paid for in accordance with the terms of the Transaction Documents, such shares will be duly authorized by all necessary corporate action and validly issued and outstanding, fully paid and nonassessable, free and clear of all Liens, encumbrances, pre-emptive rights and rights of refusal of any kind. When the Conversion Shares and/or Redemptions Shares are issued in accordance with the terms of the Certificate of Designations and the Warrant Shares are issued upon exercise of the Warrants and payment of the exercise price, such shares will be duly authorized by all necessary corporate action and validly issued and outstanding, fully paid and nonassessable, free and clear of all Liens, encumbrances, pre-emptive rights and rights of refusal of any kind.

(e) No Conflicts. The execution, delivery and performance of the Transaction Documents by the Company, the performance by the Company of its obligations under the Transaction Documents, and the consummation by the Company of the transactions contemplated by the Transaction Documents, and the issuance of the Securities as contemplated by the Transaction Documents, do not and will not (i) violate or conflict with any provision of the Company's Articles of Incorporation (the "Articles") or By-laws (the "By-laws"), each as amended to date (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, mortgage, deed of trust, indenture, note, bond, license, lease agreement, instrument or obligation to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries' respective properties or assets are bound, (iii) result in a violation of any foreign, federal, state or local statute, law, rule, regulation, order, judgment or decree (including federal and state securities laws and regulations) applicable to the Company or any of its Subsidiaries or by which any property or asset of the Company or any of its Subsidiaries are bound or affected, or (iv) create or impose a lien, mortgage, security interest, charge or encumbrance of any nature (each, a "Lien") on any property or asset of the Company or its Subsidiaries under any agreement or any commitment to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound or by which any of their respective properties or assets are bound, except, in the case of clauses (ii), (iii) and (iv), for such conflicts, defaults, terminations, amendments, violations, acceleration, cancellations, creations and impositions as would not, individually or in the aggregate, reasonably be expected to have or result in a Material Adverse Effect. Neither the Company nor any of its Subsidiaries is required under foreign, federal, state or local law, rule or regulation to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under the Transaction Documents or issue and sell the Securities other than the filing of the Prospectus Supplements with the Commission in accordance with the terms hereof, any filings or approvals required from the Financial Industry Regulatory Authority, Inc. ("FINRA") and any approval of the Company's stockholders, as may be required by the NYSE Amex.

(f) Commission Documents, Financial Statements. The Common Stock of the Company is registered pursuant to Section 12(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the Company has timely filed all reports, schedules, forms, statements and other documents required to be filed by it with the Commission pursuant to the reporting requirements of the Exchange Act (all of the foregoing including filings incorporated by reference therein being referred to herein as the "Commission Documents"). At the times of their respective filings, the Form 10-K for the fiscal year ended December 31, 2009 (the "Form 10-K", and together with any other report, schedule, form, statement or other document filed by the Company with the Commission pursuant to the reporting requirements of the Exchange Act subsequent to the filing of the Form 10-K and prior to the date of this Agreement, the "Public Filings") complied in all material respects with the requirements of the Exchange Act and the rules and regulations of the Commission promulgated thereunder. The Public Filings, the Registration Statement, and the Prospectus did not (and at the time of filing of any applicable Prospectus Supplement will not), and do not, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, provided however, that the Company makes no representation or warranty as to information furnished to the Company by the Purchasers. As of their respective dates, the financial statements of the Company included in the Commission Documents complied as to form in all material respects with Regulation S-X and all other published rules and regulations of the Commission. Such financial statements have been prepared in accordance with generally accepted accounting principles ("GAAP") applied on a consistent basis during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto or (ii) in the case of unaudited interim statements, to the extent they may not include footnotes or may be condensed or summary statements), and fairly present in all material respects the financial position of the Company and its consolidated Subsidiaries as of the dates thereof and the results of operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments).

(i) Schedule 2.1(g) sets forth each Subsidiary of the Company, showing the jurisdiction of its incorporation or organization and showing the percentage of each person's or entity's ownership of the outstanding stock or other interests of such Subsidiary. For the purposes of this Agreement, "Subsidiary," shall mean any corporation or other entity of which at least a majority of the securities or other ownership interest having ordinary voting power (absolutely or contingently) for the election of directors or other persons performing similar functions are at the time owned directly or indirectly by the Company and/or any of its other Subsidiaries. All the outstanding shares of capital stock (if any) of each subsidiary of the Company have been duly authorized and validly issued, are fully paid and non-assessable and are owned by the Company directly or indirectly through one or more wholly-owned subsidiaries, free and clear of any claim, lien, encumbrance, security interest, restriction upon voting or transfer or any other claim of any third party.

(ii) Each of the Company's Subsidiaries that is incorporated in the People's Republic of China or "PRC" (a "China Subsidiary") have been duly organized and are validly existing as corporations or other legal entities in good standing (or the Chinese equivalent thereof) under the laws of their respective jurisdictions of organization. Each China Subsidiary is duly qualified to do business and is in good standing as foreign corporations or other legal entity in each jurisdiction in which their respective ownership or lease of property or the conduct of their respective businesses requires such qualification and have all power and authority (corporate or other) necessary to own or hold their respective properties and to conduct the businesses in which they are engaged, except where the failure to so qualify or have such power or authority would not have, singularly or in the aggregate, a Material Adverse Effect. The Company owns or controls, directly or indirectly, only the following corporations, partnerships, limited liability partnerships, limited liability companies, associations or other entities: NeoStem (China), Inc., China Biopharmaceutical Holdings, Inc., Stem Cell Technologies, Inc., NeoStem Therapies, Inc., Qingdao Niao Bio-Technology Ltd. and Beijing Ruijieao Bio-Technology Ltd. (the "PRC VIEs") and Suzhou Erye Pharmaceuticals Ltd.

(iii) Each China Subsidiary has applied for and obtained all requisite business licenses, clearance and permits required under PRC law as necessary for the conduct of its businesses in all material respects, and each China Subsidiary has complied in all material respects with all PRC laws, rules and regulations ("PRC Laws") in connection with foreign exchange, including without limitation, carrying out all relevant filings, registrations and applications for relevant permits with the PRC State Administration of Foreign Exchange and any other relevant authorities, and all such permits are validly subsisting. The registered capital of each China Subsidiary has been fully paid up in accordance with the schedule of payment stipulated in its respective articles of association, approval document, certificate of approval and legal person business license (hereinafter referred to as the "Establishment Documents") and in compliance in all material respects with PRC Laws, except where the failure to have been fully paid would not have a Material Adverse Effect and there is no outstanding capital contribution commitment for any China Subsidiary. The Establishment Documents of the China Subsidiaries have been duly approved in accordance with the laws of the PRC and are valid and enforceable. The business scope specified in the Establishment Documents of each China Subsidiary complies in all material respects with the requirements of all relevant PRC Laws. The outstanding equity interests of each China Subsidiary are owned by the respective entities or individuals identified as the registered holders thereof in the Reports.

(iv) No consents, approvals, authorizations, orders, registrations, clearances, certificates, franchises, licenses, permits or qualifications of or with any PRC governmental agency are required for the Company's or its affiliates' or subsidiaries' contractual arrangements and agreements with the PRC variable interest entities and their registered equity holders (the "VIE Structure") or the execution, delivery and performance of such contractual arrangements and agreements (the "VIE Structuring Documents") except where the failure to obtain such consents, approvals, authorizations, orders, registrations, clearances, certificates, franchises, licenses, permits or qualifications would not, singularly or in the aggregate, have a Material Adverse Effect. None of the VIE Structuring Documents has been revoked and no such revocation is pending or, to the Company's knowledge, threatened. Each of the VIE Structuring Documents has been entered into prior to the date thereof in compliance in all material respects with all applicable laws and regulations and constitutes a valid and legally binding agreement, enforceable in accordance with its terms.

(v) The VIE Structure complies, and immediately following the consummation of the offering and sale of the Securities will comply, in all material respects with all applicable laws, regulations, rules, orders, decrees, guidelines, notices or other legislation of the PRC; the VIE Structure has not been challenged by any PRC governmental agency and there are no legal, arbitration, governmental or other proceedings (including, without limitation, governmental investigations or inquiries) pending before or, to the Company's knowledge, threatened or contemplated by any PRC governmental agency in respect of the VIE Structure; and the Company reasonably believes that after the consummation of the offering and sale of the Securities, the VIE Structure will not be challenged by any PRC governmental agency.

(vi) Each of the China Subsidiaries is in compliance with all requirements under all applicable PRC Laws to qualify in all material respects for their exemptions from enterprise income tax or other income tax benefits (the "Tax Benefits") as described in the Reports, and the actual operations and business activities of each such China Subsidiary are sufficient to meet the qualifications for the Tax Benefits. No submissions made to any PRC government authority in connection with obtaining the Tax Benefits contained any misstatement or omission that would have affected the granting of the Tax Benefits. No China Subsidiary has received notice of any deficiency in its respective applications for the Tax Benefits, and the Company is not aware of any reason why any such China Subsidiary might not qualify for, or be in compliance with the requirements for, the Tax Benefits.

(h) No Material Adverse Change. Since December 31, 2009, (i) the Company has not experienced or suffered any event or series of events that, individually or in the aggregate, has had or reasonably would be expected to have a Material Adverse Effect; and (ii) no event or circumstance has occurred or exists with respect to the Company or its Subsidiaries or their respective businesses, properties, prospects, operations or financial condition, that, under applicable law, rule or regulation, requires public disclosure or announcement by the Company but which has not been so publicly announced or disclosed.

(i) No Undisclosed Liabilities. Neither the Company nor any Subsidiary has any liabilities or obligations of any nature (absolute, accrued, contingent or otherwise) which are not properly reflected or reserved against in the Company's financial statements included in the Reports to the extent required to be so reflected or reserved against in accordance with GAAP, except for (i) liabilities that have arisen in the ordinary course of business consistent with past practice and that have not had a Material Adverse Effect, and (ii) liabilities that, individually or in the aggregate, have not had and would not reasonably be expected to have or result in a Material Adverse Effect.

(j) Indebtedness. Schedule 2.1(j) hereto sets forth as of the Closing Date all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments. For the purposes of this Agreement, "Indebtedness" shall include (a) all obligations for borrowed money, (b) all obligations evidenced by bonds, debentures, notes, or other similar instruments and all reimbursement or other obligations in respect of letters of credit, bankers acceptances, current swap agreements, interest rate hedging agreements, interest rate swaps, or other financial products, (c) all capital or equipment lease obligations or purchase money security interests that exceed \$2,500,000 in the aggregate in any fiscal year, (d) all obligations or liabilities secured by a Lien on any asset of the Company, irrespective of whether such obligation or liability is assumed, other than capital or equipment leases and purchase money security interests in amounts excluded from disclosure under clause (c) above, and (e) any obligation guaranteeing or intended to guarantee (whether directly or indirectly guaranteed, endorsed, co-made, discounted or sold with recourse) any of the foregoing obligations of any other person or entity.

(k) Title to Assets. Each of the Company and the Subsidiaries has good and marketable title to all of its real and personal property which are material to the business of the Company, free and clear of any Liens, except for those that would not, individually or in the aggregate, reasonably be expected to have or result in a Material Adverse Effect. All leases of the Company and each of its Subsidiaries are valid and subsisting and in full force and effect.

(l) Actions Pending. There is no action, suit, claim, arbitration, alternate dispute resolution proceeding or other proceeding (collectively, "Proceedings") pending or, to the knowledge of the Company, threatened against the Company or any Subsidiary that questions the validity of this Agreement or any of the other Transaction Documents or any of the transactions contemplated hereby or thereby or any action taken or to be taken pursuant hereto or thereto. To the knowledge of the Company, there are no such investigations pending or threatened. There are no material Proceedings pending or, to the knowledge of the Company, threatened against or involving the Company, any Subsidiary or any of their respective properties or assets. No Proceeding described in the Reports would, individually or in the aggregate, reasonably be expected, if adversely determined, to have a Material Adverse Effect. There are no outstanding orders, judgments, injunctions, awards, decrees or, to the knowledge of the Company, investigations of any court, arbitrator or governmental, regulatory body, self-regulatory agency or stock exchange against the Company or any Subsidiary or, to the knowledge of the Company, any officers or directors of the Company or Subsidiary in their capacities as such, except for those that would not, individually or in the aggregate, reasonably be expected to have or result in a Material Adverse Effect.

(m) Compliance with Law. Except as would not, individually or in the aggregate, reasonably be expected to have or result in a Material Adverse Effect, the Company and its Subsidiaries have been and are presently conducting their respective businesses in accordance with all applicable foreign, federal, state and local governmental laws, rules, regulations and ordinances. The Company and each of its Subsidiaries have all material franchises, permits, licenses, consents and other material governmental or regulatory authorizations and approvals necessary for the conduct of its business as now being conducted by it except where any failures to possess the same would not individually or in the aggregate reasonably be expected to have or result in a Material Adverse Effect. The Company has complied and will comply in all material respects with all applicable federal and state securities laws in connection with the Offering.

(n) Taxes. The Company and each Subsidiary each has (i) timely filed all necessary federal, state, local and foreign tax returns, and all such returns were true, complete and correct, and (ii) paid all federal, state, local and foreign taxes, assessments, governmental or other charges due and payable for which it is liable, including, without limitation, all sales and use taxes and all taxes which the Company or any of its Subsidiaries is obligated to withhold from amounts owing to employees, creditors and third parties, and (iii) does not have any tax deficiency or claims outstanding or assessed or, to its knowledge, proposed against any of them, except those, in each of the cases described in clauses (i), (ii) and (iii) of this paragraph (n), that would not, singularly or in the aggregate, have a Material Adverse Effect. The Company is not, nor has it been in the last five years, a U.S. real property holding corporation under Section 897 of the Code. The Company and its Subsidiaries have not engaged in any transaction which is a corporate tax shelter or which could be characterized as such by the Internal Revenue Service or any other taxing authority. The accruals and reserves on the books and records of the Company and its Subsidiaries in respect of tax liabilities are adequate to meet any assessments and related liabilities, and since December 31, 2009 the Company and its Subsidiaries have not incurred any liability for taxes other than in the ordinary course.

(o) Certain Fees. Except for the retention of the Placement Agents, the Company has not employed any broker or finder or incurred any liability for any brokerage or investment banking fees, commissions, finders' structuring fees, financial advisory fees or other similar fees in connection with the Transaction Documents.

(p) Disclosure. Except for the information concerning the transactions contemplated by this Agreement and the concurrent common stock offering, the Company confirms that neither it nor any other person or entity acting on its behalf has provided any of the Purchasers or their agents or counsel with any information that constitutes or might constitute material, nonpublic information.

(q) Intellectual Property. The Company and its subsidiaries own or possess the valid right to use all (i) valid and enforceable patents, patent applications, trademarks, trademark registrations, service marks, service mark registrations, Internet domain name registrations, copyrights, copyright registrations, licenses, trade secret rights (“Intellectual Property Rights”) and (ii) inventions, software, works of authorships, trade marks, service marks, trade names, databases, formulae, know how, Internet domain names and other intellectual property (including trade secrets and other unpatented and/or unpatentable proprietary confidential information, systems, or procedures) (collectively, “Intellectual Property Assets”) necessary to conduct their respective businesses as currently conducted, and as proposed to be conducted and described in the Reports and the Prospectus. To the knowledge of the Company, neither the Company nor any of its Subsidiaries is infringing, misappropriating, or otherwise violating, valid and enforceable Intellectual Property Rights of any other person, and, except as set forth in the Reports and the Prospectus, have not received written notice of any challenge (, by any other person to the rights of the Company and its subsidiaries with respect to any Intellectual Property Rights or Intellectual Property Assets owned or used by the Company or its subsidiaries. To the knowledge of the Company, except as described in the Registration Statement, the Report and the Prospectus, the Company and its subsidiaries’ respective businesses as now conducted do not give rise to any infringement of, any misappropriation of, or other violation of, any valid and enforceable Intellectual Property Rights of any other person. All licenses for the use of the Intellectual Property Rights described in the Reports and the Prospectus are valid, binding upon, and enforceable by or against the parties thereto in accordance to its terms. The Company has complied in all material respects with, and is not in breach nor has received any asserted or threatened claim of breach of any Intellectual Property license that has not been resolved, and to the knowledge of the Company there has been no unresolved breach or anticipated breach by any other person to any Intellectual Property license, except where such breach, singularly or in the aggregate, would not have a Material Adverse Effect. There are no unresolved claims against the Company alleging the infringement by the Company of any patent, trademark, service mark, trade name, copyright, trade secret, license in or other intellectual property right or franchise right of any person, except to the extent that any such claim does not have a Material Adverse Effect. The Company has taken reasonable steps to protect, maintain and safeguard its Intellectual Property Rights, including the execution of appropriate nondisclosure and confidentiality agreements. The consummation of the transactions contemplated by this Agreement will not result in the loss or impairment of or payment of any additional amounts with respect to, nor require the consent of any other person in respect of, the Company’s right to own, use, or hold for use any of the Intellectual Property Rights as owned, used or held for use in the conduct of the business as currently conducted. The Company has taken the necessary actions to obtain ownership of all works of authorship and inventions made by its employees, consultants and contractors during the time they were employed by or under contract with the Company and which relate to the Company’s business. All key employees have signed confidentiality and invention assignment agreements with the Company.

(r) Environmental Compliance. The Company and each of its Subsidiaries have obtained all material approvals, authorization, certificates, consents, licenses, orders and permits or other similar authorizations of all governmental authorities (whether foreign, federal, state or local), or from any other person or entity, that are required under any Environmental Laws, except where any such failures would not individually or in the aggregate, reasonably be expected to have or result in a Material Adverse Effect. “Environmental Laws” shall mean all applicable foreign, federal, state and local laws relating to the protection of the environment including, without limitation, all requirements pertaining to reporting, licensing, permitting, controlling, investigating or remediating emissions, discharges, releases or threatened releases of hazardous substances, chemical substances, pollutants, contaminants or toxic substances, materials or wastes, whether solid, liquid or gaseous in nature, into the air, surface water, groundwater or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of hazardous substances, chemical substances, pollutants, contaminants or toxic substances, material or wastes, whether solid, liquid or gaseous in nature. The Company and each of its Subsidiaries are also in compliance with all requirements, limitations, restrictions, conditions, standards, schedules and timetables required or imposed under all Environmental Laws, except as would not, individually or in the aggregate, reasonably be expected to have or result in a Material Adverse Effect. Except as would not, individually or in the aggregate, reasonably be expected to have or result in a Material Adverse Effect, there are no past or present events, conditions, circumstances, incidents, actions or omissions relating to or in any way affecting the Company or its Subsidiaries that violate or may violate any Environmental Law or that may give rise to any environmental liability, or otherwise form the basis of any claim, action, demand, suit, proceeding, hearing, study or investigation under any Environmental Law, or based on or related to the manufacture, processing, distribution, use, treatment, storage (including without limitation underground storage tanks), disposal, transport or handling, or the emission, discharge, release or threatened release of any hazardous substance.

(s) Books and Records; Internal Accounting Controls. The books and records of the Company and its Subsidiaries accurately reflect in all material respects the information relating to the business of the Company and the Subsidiaries, the location and collection of their assets, and the nature of all transactions giving rise to the obligations or accounts receivable of the Company or any Subsidiary. The Company is in material compliance with all provisions of the Sarbanes-Oxley Act of 2002 which are applicable to it as of the Closing Date. The Company and its Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management’s general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management’s general or specific authorization, and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences and control over financial reporting (as defined in Exchange Act Rules 13a-15). The Company has established disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the Company and designed such disclosure controls and procedures to ensure that information required to be disclosed by the Company in the reports it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission’s rules and forms. The Company’s certifying officers have evaluated the effectiveness of the Company’s disclosure controls and procedures as of the end of the period covered by the Company’s most recently filed periodic report under the Exchange Act (such date, the “Evaluation Date”). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the Company’s internal control over financial reporting (as such term is defined in the Exchange Act).

(t) Material Agreements. True, complete and correct copies of each material contract of the Company or any Subsidiary required to be filed on a Current Report on Form 8-K, a Quarterly Report on Form 10-Q, or an Annual Report on Form 10-K, in each case pursuant to Item 601(a) and Item 601(b)(10) of Regulation S-K under the Exchange Act (the “Company Material Agreements”) are attached or incorporated as exhibits to the Reports. Each of the Company Material Agreements is valid and binding on the Company and the Subsidiaries, as applicable, and in full force and effect. The Company and each of the Subsidiaries, as applicable, are in all material respects in compliance with and have in all material respects performed all obligations required to be performed by them to date under each Company Material Agreement. Neither the Company nor any Subsidiary knows of, or has received notice of, any material violation or default (or any condition which with the passage of time or the giving of notice would cause such a violation of or a default) by any party under any Company Material Agreement.

(u) Transactions with Affiliates. There are no loans, leases, agreements, contracts, royalty agreements, management contracts or arrangements or other continuing transactions between (a) the Company, any Subsidiary or any of their respective customers or suppliers on the one hand, and (b) on the other hand, any officer, employee, consultant or director of the Company, or any of its Subsidiaries, or any person or entity owning at least 5% of the outstanding capital stock of the Company or any Subsidiary or any member of the immediate family of such officer, employee, consultant, director or stockholder or any corporation or other entity controlled by such officer, employee, consultant, director or stockholder, or a member of the immediate family of such officer, employee, consultant, director or stockholder which, in each case, is required to be disclosed in the Commission Documents or in the Company’s most recently filed definitive proxy statement on Schedule 14A, that is not so disclosed in the Commission Documents or in such proxy statement.

(v) Employees. There is (A) no significant unfair labor practice complaint pending against the Company, or any of its subsidiaries, nor to the knowledge of the Company, threatened against it or any of its subsidiaries, before the National Labor Relations Board, any state or local labor relation board or any foreign labor relations board, and no significant grievance or significant arbitration proceeding arising out of or under any collective bargaining agreement is so pending against the Company or any of its subsidiaries, or, to the knowledge of the Company, threatened against it and (B) no labor disturbance by the employees of the Company or any of its subsidiaries exists or, to the Company’s knowledge, is imminent, and the Company is not aware of any existing or imminent labor disturbance by the employees of any of its or its subsidiaries principal suppliers, manufacturers, customers or contractors, that could reasonably be expected, singularly or in the aggregate, to have a Material Adverse Effect. Neither the Company nor any Subsidiary has any employment contract, agreement regarding proprietary information, non-competition agreement, non-solicitation agreement, confidentiality agreement, or any other similar contract or restrictive covenant, relating to the right of any officer, employee or consultant to be employed or engaged by the Company or such Subsidiary required to be disclosed in the Reports that is not so disclosed. No “named executive officer” (as defined in Item 402 of Regulation S-K) of the Company has terminated or, to the knowledge of the Company, has any present intention of terminating his or her employment with the Company or any Subsidiary. The Company and each Subsidiary is in compliance with all foreign, federal, state and local laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, and employee benefits plans (including, without limitation, the Employee Retirement Income Securities Act of 1974, as amended, and any similar law of the PRC), except where such non-compliance would not, individually or in the aggregate, reasonably be expected to have or result in a Material Adverse Effect.

(w) Absence of Certain Developments. Since the date on which the most recent Report was filed with the Commission through the date hereof, neither the Company nor any of its subsidiaries has (i) issued or granted any securities other than options to purchase common stock pursuant to the Company's stock option plan or securities issued upon exercise of stock options in the ordinary course of business, (ii) incurred any material liability or obligation, direct or contingent, other than liabilities and obligations which were incurred in the ordinary course of business, (iii) entered into any material transaction other than in the ordinary course of business or (iv) declared or paid any dividend on its capital stock.

(x) No Guarantees of Indebtedness. The Company has not guaranteed (directly or indirectly) any Indebtedness of any Subsidiary.

(y) Investment Company Act Status. Neither the Company nor any Subsidiary is, nor as a result of and immediately upon the Closing will be, an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended.

(z) Independent Nature of Purchasers. The Company acknowledges that the obligations of each Purchaser under the Transaction Documents are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance of the obligations of any other Purchaser under the Transaction Documents. The Company acknowledges that each Purchaser shall be entitled to independently protect and enforce its rights, including without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Purchaser to be joined as an additional party in any proceeding for such purpose.

(aa) Dilutive Effect. The Company understands and acknowledges that its obligation to issue the Securities pursuant to the Transaction Documents is absolute and unconditional regardless of the dilutive effect that such issuance may have on the ownership interest of other shareholders of the Company.

(bb) DTC Status. The Company's transfer agent is a participant in and the Common Stock is eligible for transfer pursuant to the Depository Trust Company Fast Automated Securities Transfer Program. The name, address, telephone number, fax number, contact person and email of the Company transfer agent is set forth on Schedule 2.1(bb).

(cc) Governmental Approvals. Except for the filing of the Prospectus Supplements and the filing of any notice prior or subsequent to the Closing that may be required under applicable state and/or federal securities laws or by FINRA or the NYSE Amex (which if required, shall be filed on a timely basis), no authorization, consent, approval, license, exemption of, filing or registration with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, is or will be necessary for, or in connection with, the performance by the Company of its obligations under the Transaction Documents.

(dd) Insurance. The Company and each of its Subsidiaries carry or are covered by insurance in such amounts and covering such risks as management of the Company believes to be prudent. Neither the Company nor any such Subsidiary has been refused any material insurance coverage sought or applied for and the Company does not have any reason to believe that it or any Subsidiary will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not reasonably be expected to have or result in a Material Adverse Effect.

(ee) Trading Activities. It is understood and acknowledged by the Company that none of the Purchasers has been asked to agree, nor has any Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or “derivative” securities based on securities issued by the Company or to hold the Conversion Shares, the Redemption Shares or the Warrant Shares for any specified term. The Company further understands and acknowledges that one or more Purchasers may engage in hedging and/or trading activities at various times during the period that the Conversion Shares, the Redemption Shares or the Warrant Shares are outstanding, including, without limitation, during the periods that the value of the Conversion Shares, the Redemption Shares or Warrant Shares are being determined and such hedging and/or trading activities, if any, can reduce the value of the existing stockholders’ equity interest in the Company both at and after the time the hedging and/or trading activities are being conducted.

(ff) Certain Business Practices. None of the Company or any Company Subsidiary or, to the Company's knowledge, any director, officer, agent, employee or other person or entity acting for or on behalf of Company or any Subsidiary has violated the U.S. Foreign Corrupt Practices Act of 1977, as amended or to the knowledge of the Company, anti-corruption laws applicable to the Company or any Subsidiary.

(gg) Shell Company Status. The Company is not currently, and has not been for the past twelve (12) months, an issuer of the type described in paragraph (i) of Rule 144 under the Securities Act.

(hh) Registration Statement.

(i) The Registration Statement has become effective; no stop order suspending the effectiveness of the Registration Statement is in effect, and no proceedings for such purpose are pending before or, to the knowledge of the Company, threatened by the Commission. Upon issuance and delivery to the Purchasers in accordance with the provisions of the Transaction Documents, the Securities shall be free of any restriction on transferability under federal securities laws and for Securities consisting of shares of Common Stock, state “Blue Sky” laws and any certificates or other instruments evidencing or representing the Securities shall be free of any restrictive legend.

(ii) The Company is in compliance in all material respects with the applicable listing and corporate governance rules and regulations of the NYSE AMEX Equities (the "Principal Market"). The Company has not, in the preceding twelve (12) months, received notice from the Principal Market to the effect that the Company is not in compliance with the listing or maintenance requirements of the Principal Market. The Company is, and has no reason to believe that it will not in the foreseeable future continue to be, in compliance with all such listing and maintenance requirements.

2.2. Representations and Warranties of the Purchasers. Each of the Purchasers hereby represents and warrants to the Company with respect solely to itself and not with respect to any other Purchaser as follows as of the date hereof and as of the Closing Date:

(a) Organization and Standing of the Purchasers. If the Purchaser is an entity, such Purchaser is a corporation, limited liability company, partnership or limited partnership duly incorporated or organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization.

(b) Authorization and Power. Each Purchaser has the requisite power and authority to enter into and perform the Transaction Documents and to purchase Preferred Shares and Warrants being sold to it hereunder. The execution, delivery and performance of the Transaction Documents by each Purchaser and the consummation by it of the transactions contemplated hereby have been duly authorized by all necessary corporate or partnership action, and no further consent or authorization of such Purchaser or its board of directors, stockholders, members or partners, as the case may be, is required. When executed and delivered by the Purchasers, the Transaction Documents shall constitute valid and binding obligations of each Purchaser enforceable against such Purchaser in accordance with their terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, conservatorship, receivership or similar laws relating to, or affecting generally the enforcement of, creditor's rights and remedies or by other equitable principles of general application.

(c) No Conflicts. The execution, delivery and performance by each Purchaser of the Transaction Documents to which it is a party and the consummation by each Purchaser of the transactions contemplated hereby and thereby will not (i) result in a violation of the organizational documents of the Purchaser, (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Purchaser is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws) applicable to the Purchaser, except in the case of clauses (ii) and (iii) above, for such conflicts, defaults, rights or violations that would not, individually or in the aggregate, reasonably be expected to have or result in a material adverse effect on the ability of the Purchaser to perform its obligations hereunder.

(d) Certain Fees. The Purchasers have not employed any broker or finder or incurred any liability for any brokerage or investment banking fees, commissions, finders' structuring fees, financial advisory fees or other similar fees in connection with the Transaction Documents.

ARTICLE 3

COVENANTS AND AGREEMENTS

Unless otherwise specified in this Article, for so long as any Preferred Shares or Warrants remain outstanding, and between the date hereof and the Closing Date, the Company covenants with each Purchaser as follows, which covenants are for the benefit of each Purchaser their respective permitted assignees.

3.1. Issuance of the Shares. The Company will issue the Preferred Shares, Common Shares, and Warrants to each Purchaser at the Closing.

3.2. Compliance with Laws; Commission. The Company shall take all necessary actions and proceedings as may be required and permitted by applicable law, rule and regulation, for the legal and valid issuance (free from any restriction on transferability under federal securities laws) of the Securities to the Purchasers or their respective subsequent holders.

3.3. Registration and Listing. The Company shall cause its Common Stock to continue to be registered under Sections 12(b) of the Exchange Act, to comply in all material respects with its reporting and filing obligations under the Exchange Act and to not take any action or file any document (whether or not permitted by the Securities Act or the rules promulgated thereunder) to terminate or suspend such registration or to terminate or suspend its reporting and filing obligations under the Exchange Act or Securities Act even if the rules and regulations thereunder would permit such termination. The Company will use its reasonable commercial efforts to continue the listing or trading of its Common Stock on the Principal Market. In addition, the Company shall keep the Registration Statement (or another registration statement covering issuance of the Warrant Shares) continuously effective. In further addition, the Company shall file such amendments to the Registration Statement (or such other registration statement covering the issuance of Warrant Shares) and such prospectus supplements that may be necessary for the issuance of any Conversion Shares, Redemption Shares and/or Warrant Shares to the Purchasers free of any restrictive legends or other limitation on resale by the Purchasers under the Securities Act.

3.4. Keeping of Records and Books of Account. The Company shall use reasonable commercial efforts to keep and cause each Subsidiary to keep adequate records and books of account, in which complete entries will be made in accordance with GAAP consistently applied, reflecting all financial transactions of the Company and its Subsidiaries, and in which, for each fiscal year, all proper reserves for depreciation, depletion, obsolescence, amortization, taxes, bad debts and other purposes in connection with its business shall be made.

3.5. Other Agreements. The Company shall not enter into any agreement in which the terms of such agreement would restrict or impair the right or ability of the Company to perform under any Transaction Document. The Company shall comply with each of its obligations, covenants and agreements under the other Transaction Documents in all material respects.

3.6. Use of Proceeds. The proceeds from the sale of the Securities hereunder shall be used by the Company for general corporate purposes.

3.7. Disclosure of Transaction.

(a) Except for press releases and public statements as may upon the advice of outside counsel be required by law or the rules or regulations of the Principal Market or the Commission ("Required Disclosures"), the Company shall separately consult with JGB Management Inc. (the "Purchaser Representative") before issuing any press release with respect to the Transaction Documents or the transactions contemplated thereby and shall not issue any such press release or make any public statements (including any non-confidential filings with governmental entities that name another party hereto) without the prior consent of the Purchaser Representative, which consent shall not be unreasonably withheld or delayed. In the case of any Required Disclosure, the Company shall provide the Purchaser Representative with prior notice of such Required Disclosure and use its reasonable best efforts to consult with and coordinate such Required Disclosure with the Purchaser Representative. Unless the Company and the Purchaser Representative otherwise agree, the Company shall only include in a Required Disclosure such information that is legally required to be disclosed upon the advice of counsel.

(b) The Company shall file with the Commission a Current Report on Form 8-K (the "Form 8-K"), as soon as practicable following the date hereof but in no event more than four business days following the date hereof (the "Announcement Date"), which shall attach as exhibits all press releases relating to the transactions contemplated by this Agreement and the Transaction Documents. In addition, no later than 8:45 AM New York City Time on the business day following the Closing Date (the "Closing Announcement Date"), the Company shall also file a Current Report on Form 8-K. The Form 8-K, including all exhibits, filed no later than the Announcement Date and the Closing Announcement Date, shall be subject to prior review and comment by the Purchaser Representative. Upon the filing of the Form 8-K either by the Announcement Date or Closing Announcement Date, as applicable, no Purchaser shall be deemed to be in possession of any non-public information regarding the Company. Notwithstanding the Company's failure to comply with its obligation to file the Form 8-K, pursuant to this Section 3.7(b), following the Announcement Date, or Closing Announcement Date, as applicable, no Purchaser shall be deemed (A) to have any obligation of confidentiality with respect to any non-public information of the Company or (B) to be in breach of any duty to the Company and/or any other person and/or to have misappropriated any non-public information of the Company, if such Purchaser engages in transactions in securities of the Company, including, without limitation, any hedging transactions, short sales or any derivative transactions based on securities of the Company, while in possession of such information.

3.8. Disclosure of Material Information; No Obligation of Confidentiality.

(a) The Company covenants and agrees that neither it nor any other person or entity acting on its behalf will provide any Purchaser or its agents or counsel with any information that the Company believes constitutes non-public information, unless prior thereto such Purchaser shall have executed a written agreement regarding the confidentiality and use of such information. The Company understands and confirms that each Purchaser shall be relying on the foregoing representations in effecting transactions in securities of the Company. In the event of a breach of the foregoing covenant by the Company, or any of its Subsidiaries, or any of its or their respective officers, directors, employees and agents, in addition to any other remedy provided herein or in the Transaction Documents, the Company shall publicly disclose any material, non-public information in a Form 8-K within one business day following the date that it discloses such information to any Purchaser or such earlier time as may be required by Regulation FD or other applicable law. In the event that the Company discloses any non-public information to a Purchaser and fails to publicly file a Form 8-K in accordance with the above, then a Purchaser shall have the option to make a public disclosure, in the form of a press release, public advertisement or otherwise, of such nonpublic information without the prior approval by the Company, its Subsidiaries, or any of its or their respective officers, directors, employees or agents; provided, however, such Purchaser shall provide the Company with a copy of such press release, public advertisement or other public announcement at least twelve hours prior to its public dissemination. No Purchaser shall have any liability to the Company, its Subsidiaries, or any of its or their respective officers, directors, employees, stockholders or agents, for any such disclosure.

(b) No Purchaser shall be deemed to have any obligation of confidentiality with respect to (i) any non-public information of the Company disclosed to such Purchaser in breach of Section 3.8(a) (whether or not the Company files a Form 8-K as provided above), (ii) the fact that any Purchaser has exercised any of its rights and/or remedies under the Transaction Documents or (iii) any information obtained by any Purchaser as a result of exercising any of its rights and/or remedies under the Transaction Documents. In further addition, no Purchaser shall be deemed to be in breach of any duty to the Company and/or to have misappropriated any non-public information of the Company, if such Purchaser engages in transactions of securities of the Company, including, without limitation, any hedging transactions, short sales or any derivative transactions based on securities of the Company while in possession of such non-public information.

(c) Any Form 8-K, including all exhibits thereto, filed by the Company pursuant to Section 3.8(a) shall be subject to prior review and comment by the applicable Purchaser.

(d) From and after the filing of any Form 8-K pursuant to Section 3.8(a) with the Commission, no Purchaser shall be in possession of any material, nonpublic information received from the Company, any of its Subsidiaries or any of their respective officers, directors, employees or agents, that is not disclosed in such Form 8-K filed pursuant to Section 3.8(a).

3.9. Amendments to Charter Documents. The Company shall not, without the consent of each holder of the Preferred Shares then held by the Purchasers, amend or waive any provision of the Articles or By-laws of the Company whether by merger, consolidation or otherwise in any way that would adversely affect any rights of the holder of the Securities. Without limiting the generality of the foregoing, without the prior express written consent of the Required Holders (as defined in the Certificate of Designations), the Company shall not hereafter authorize or issue additional or other capital stock that is of senior or pari-passu rank to the Preferred Shares in respect of the preferences as to dividends and other distributions, amortization and redemption payments and payments upon a Liquidation Event (as defined in the Certificate of Designations). The Company shall be permitted to issue preferred stock that is junior in rank to the Preferred Shares in respect of the preferences as to dividends and other distributions, amortization and redemption payments and payments upon a Liquidation Event, provided, that the maturity date (or any other date requiring redemption, repayment or any other payment, including, without limitation, dividends in respect of any such preferred shares) of any such junior preferred shares is not on or before ninety-one (91) days after the Maturity Date (as defined in the Certificate of Designations).

3.10. No Pledge. Neither the Company nor any Subsidiary (except for the existing mortgage by Progenitor Cell Therapy, LLC on the property located in Allendale, New Jersey (the "Allendale Property"), as it may be increased by up to \$1 million or otherwise amended from time to time (not to exceed a total of \$3.9 million), and any existing pledges by Neostem (China) Inc. prior to the Closing Date) shall create, incur or permit to exist any pledge, mortgage, lien, charge, encumbrance, hypothecation or other grant of security interest, whether direct or indirect, voluntary or involuntary or by operation of law on any assets without the prior written consent of a majority of the holders of the Preferred Shares ("Pledge Limitations"). Such Pledge Limitations shall not apply to (1) any pledges by Suzhou Erye Pharmaceutical Co., Ltd ("Suzhou"), a company organized under the laws of the People's Republic of China (for the avoidance of doubt, neither the Company nor any Subsidiary shall guarantee (directly or indirectly) any Indebtedness of any kind incurred by Suzhou), (2) capital or equipment leases or purchase money financing arrangements first incurred after the date hereof involving less than \$2.5 million in the aggregate so long as the collateral is limited to the equipment or other Property leased or purchased ("Permitted Equipment Financing") (for the avoidance of doubt, once any portion of Permitted Equipment Financing has been repaid by the Company or any Subsidiary, as applicable, it may not be reborrowed), (3) insurance premium financing, (4) any pledges securing debt described by the last sentence of Section 3.11 or (5) any "Permitted Liens." ("Permitted Liens" shall mean: (i) liens imposed by law for taxes, assessments or charges or levies of any governmental authority for claims not yet due or which are being contested in good faith by appropriate proceedings and with respect to which adequate reserves or other appropriate provisions are being maintained in accordance with GAAP; (ii) liens of landlords and liens of carriers, warehousemen, suppliers, mechanics, materialmen and other liens in existence on the date hereof or thereafter imposed by law and created in the ordinary course of business; (iii) liens incurred or deposits made in the ordinary course of business (including, without limitation, surety bonds and appeal bonds) in connection with workers' compensation, unemployment insurance and other types of social security benefits or to secure the performance of tenders, bids, leases, contracts, statutory obligations and other similar obligations, (iv) easements (including, without limitations, reciprocal easement agreements and utility agreements), rights-of-way, covenants, consents, reservations, encroachments, variations and zoning and other restrictions, charges or encumbrances (whether or not recorded) and interest of ground lessors, which do not interfere materially with the ordinary conduct of the business of the Company; (v) letters of credit or deposits in the ordinary course to secure leases, and (vi) liens consisting of customary transfer restrictions in joint venture agreements, stockholder agreements or other similar agreements.

3.11. Indebtedness; Rank. Except for the mortgage held by Progenitor Cell Therapy, LLC on the Allendale Property as it may be increased by up to \$1 million or otherwise amended from time to time (not to exceed a total of \$3.9 million), existing Indebtedness incurred by Neostem (China) Inc. prior to the Closing Date, other borrowing by NeoStem (China) to provide for foreign currency exchange and secured by cash reserves of 100% of the amount borrowed, any Indebtedness incurred by Suzhou, Permitted Equipment Financing (for the avoidance of doubt, once any portion of Permitted Equipment Financing has been repaid by the Company or any Subsidiary, as applicable, it may not be reborrowed) and insurance premium financing, the Company will not, directly or indirectly, enter into, create, incur, assume or suffer to exist any Indebtedness of any kind, on or with respect to any of its property or assets now owned or hereafter acquired or any interest therein or any income or profits therefrom that is senior in any respect to the Preferred Shares without the prior written consent of a majority of the holders of the Preferred Shares. Without limiting the foregoing, the Company will not create any class or series of Securities having preference over, or senior to, the Preferred Shares without the prior written consent of a majority of the holders of the Preferred Shares. Notwithstanding the foregoing, if the Company acquires any other business, whether through merger, sale of stock, sale of assets or otherwise, and such business is obligated under any Indebtedness, such acquisition shall be permitted and neither this Section 3.11 nor Section 3.10 will be deemed to have been breached by virtue of the assumption of such Indebtedness in or by virtue of the acquisition transaction; provided, that such acquired business did not incur Indebtedness or encumber its assets in contemplation of such acquisition.

3.12. No Guarantees of Indebtedness. The Company will not guarantee (directly or indirectly), any Indebtedness of any Subsidiary, including without limitation, any Indebtedness of Suzhou.

3.13. Certificate re: Tax Status: Upon the request of any Purchaser, the Company shall deliver to such Purchaser a certificate in the form of Exhibit E and as of such date as may be requested by such Purchaser and shall make such filings as may be required to permit such Purchaser to rely on such certification to establish that an interest in the Company is not a U.S. real property interest holding corporation for the purposes of the Code.

3.14. Special Stockholders Meeting. The Company agrees to call a special meeting of shareholders, to file with the SEC a proxy statement/prospectus within thirty days of the date hereof and will use commercially reasonable efforts hold within eighty days of the date hereof (or one-hundred days after the date hereof if the proxy statement/prospectus is reviewed by the SEC), a special stockholders meeting for the purpose of approving the issuance in full of all Conversion Shares and Redemption Shares issued pursuant to the Certificate of Designations and all Warrant Shares pursuant to the Warrants. The Purchasers acknowledge that they cannot convert the Preferred Stock to Common Stock or exercise the Warrants for more than an aggregate of [___] shares **[19.9% of the outstanding NeoStem Common Stock minus shares to be issued in simultaneous common stock offerings and the number of common shares issued hereunder]** **[PLEASE FILL IN]**, or exercise any voting rights, until after shareholder approval of such issuances is obtained at such shareholders meeting.

3.15. Tax Compliance. The Company shall keep such records and make such tax filings, including filing IRS Form 5452 and making the election under Treasury Regulation 1.1441-3(c)(2)(i)(C), as may be required in connection with any actual or deemed distribution with respect to the capital stock of the Company (including, without limitation, the Preferred Shares) that is not taxable as a “dividend” for U.S. federal income tax purposes.

ARTICLE 4
CONDITIONS

4.1. Conditions Precedent to the Obligation of the Company to Close and to Sell the Securities. The obligation hereunder of the Company to close and issue and sell the Securities to the Purchasers at the Closing is subject to the satisfaction or waiver, at or before the Closing of the conditions set forth below. These conditions are for the Company's sole benefit and may be waived by the Company (other than as set forth in Section 4.1(g) below) at any time in its sole discretion.

(a) Accuracy of the Purchasers' Representations and Warranties. The representations and warranties of each Purchaser shall be true and correct in all material respects as of the date when made and as of the Closing Date as though made at that time, except for representations and warranties that are expressly made as of a particular date, which shall be true and correct in all material respects as of such date.

(b) Performance by the Purchasers. Each Purchaser shall have performed, satisfied and complied in all material respects with all covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by the Purchasers at or prior to the Closing Date.

(c) Escrow. The Purchasers shall have executed and delivered the Escrow Agreement.

(d) No Injunction. No statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or endorsed by any court or governmental authority of competent jurisdiction which prohibits the consummation of any of the transactions contemplated by this Agreement.

(e) Delivery of Subscription Amount. Each Purchaser shall have delivered to the Company its Subscription Amount for the Preferred Shares, Common Shares, and Warrants purchased by such Purchaser.

(f) Delivery of Transaction Documents. The Transaction Documents shall have been duly executed and delivered by the Purchasers to the Company.

(g) Satisfaction of Certain Other Conditions. The conditions of the Placement Agents' obligations set forth in Section 6 of that certain Placement Agency Agreement dated of even date herewith by and among the Company and the Placement Agents (the "Placement Agency Agreement") shall have been satisfied by the Company in full and the Placement Agency Agreement shall not have been terminated by the Placement Agents pursuant to Section 8 of the Placement Agency Agreement.

4.2. Conditions Precedent to the Obligation of the Purchasers to Close and to Purchase the Securities. The obligation hereunder of the Purchasers to purchase the Securities and consummate the transactions contemplated by this Agreement is subject to the satisfaction or waiver, at or before the Closing, of each of the conditions set forth below. These conditions are for the Purchasers' sole benefit and may be waived by the Purchasers (other than as set forth in Section 4.2(q) below) at any time in their sole discretion.

(a) Accuracy of the Company's Representations and Warranties. The representations and warranties of the Company in this Agreement and the other Transaction Documents shall be true and correct in all material respects as of the date when made and as of the Closing Date, except for representations and warranties that speak as of a particular date, which shall be true and correct in all material respects as of such date.

(b) Performance by the Company. The Company shall have performed, satisfied and complied in all material respects with all covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by the Company at or prior to the Closing Date.

(c) Escrow. The Company shall have executed and delivered the Escrow Agreement.

(d) Prospectus: Registration Statement. The Prospectus shall have been filed with the Commission pursuant to Rule 424(b) under the Securities Act within the applicable time period prescribed for such filing by the rules and regulations under the Securities Act; no stop order suspending the effectiveness of the Registration Statement or any part thereof shall have been issued and no proceeding for that purpose shall have been initiated or, to the Company's knowledge, threatened by the Commission and no notice of objection by the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401 (g)(2) under the Securities Act shall have been received; no stop order suspending or preventing the use of the Prospectus shall have been initiated or threatened by the Commission.

(e) No Suspension, Etc. The shares of Common Stock (i) shall be designated for quotation or listed on the Principal Market and (ii) shall not have been suspended, as of the Closing Date, by the Commission or the Principal Market from trading on the Principal Market nor shall suspension by the Commission or the Principal Market have been threatened, as of the Closing Date, either (A) in writing by the Commission or the Principal Market or (B) by falling below the minimum listing maintenance requirements of the Principal Market.

(f) No Injunction. No statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or endorsed by any court or governmental authority of competent jurisdiction which prohibits the consummation of any of the transactions contemplated by this Agreement.

(g) No Proceedings or Litigation. No action, suit or proceeding before any arbitrator or any governmental authority shall have been commenced, and no investigation by any governmental authority shall have been threatened, against the Company or any Subsidiary or any Purchaser, or any of the officers, directors or affiliates of the Company or any Subsidiary or any Purchaser seeking to restrain, prevent or change the transactions contemplated by this Agreement, or seeking damages in connection with such transactions.

(h) Opinion of Counsel. The Purchasers shall have received an opinion of counsel to the Company, dated the Closing Date, substantially in the form of Exhibit G hereto, with such exceptions and limitations as shall be reasonably acceptable to counsel to the Purchasers.

(i) Receipt of Proceeds. Prior to the Closing Date or simultaneously therewith, the Company shall have sold Common Stock and/or warrants for gross proceeds of not less than \$8,000,000 and not more than \$15,000,000.

(j) Secretary's Certificate. The Company shall have delivered to the Purchasers a certificate, signed by the Secretary of the Company and dated as of the Closing Date, as to (i) the resolutions adopted by its Board of Directors approving the transactions contemplated hereby, (ii) its charter, as in effect at the Closing Date, (iii) its bylaws, as in effect at the Closing Date, and (iv) the authority and incumbency of the officers executing the Transaction Documents and any other documents required to be executed or delivered in connection therewith.

(k) Officer's Certificate. On the Closing Date, the Company shall have delivered to the Purchasers a certificate signed by an executive officer on behalf of the Company, dated as of the Closing Date, confirming the accuracy of the Company's representations, warranties and performance of covenants as of the Closing Date and confirming the compliance by the Company with the conditions precedent set forth in paragraphs (a)-(e) and (j)-(p) of this Section 4.2 as of the Closing Date.

(l) Material Adverse Effect. No change having a Material Adverse Effect shall have occurred.

(m) Listing Application. The Conversion Shares, the Redemption Shares and the Warrant Shares have been approved for listing on the Principal Market, subject only to official notice of issuance.

(n) Approvals. Except as otherwise provided in Section 3.14 herein, the Company shall have obtained all required consents and approvals of its Board of Directors deliver and perform the Transaction Documents.

(o) Voting Agreement. The Purchasers shall have received the Voting Agreement, in the form of Exhibit F attached hereto, from officers, directors and certain shareholders of the Company, with respect to the voting of their shares of Common Stock, which shall include Robin Smith, Catherin M. Vaczy, Larry A. May, Alan G. Harris, Richard Berman, Steven S. Myers, Drew Bernstein, Eric H.C. Wei, Rim Asia Capital Partners, L.P., Shi Mingsheng, Madam Zhang Jian and Fullbright Finance Limited.

(p) Certificate of Designations. The Certificate of Designations shall have been filed with the Secretary of State of the State of Delaware.

(q) Satisfaction of Certain Other Conditions. The conditions of the Placement Agents' obligations set forth in Section 6 of the Placement Agency Agreement shall have been satisfied by the Company in full and the Placement Agency Agreement shall not have been terminated by the Placement Agents pursuant to Section 8 of the Placement Agency Agreement.

ARTICLE 5

TERMINATION

5.1. Termination. This Agreement may be terminated at any time prior to the Closing Date:

5.1.1. by either Purchasers representing a majority of the Total Subscription Amount or the Company if the Closing shall not have occurred by November 19, 2010 (the "Termination Date"), *provided, however* that the right to terminate this Agreement under this Section 5.1.1 shall not be available to any party whose breach of any representation or warranty or failure to perform any obligation under this Agreement shall have caused or resulted in the failure of the Closing to occur on or prior to such date; or

5.1.2. Purchasers representing a majority of the Total Subscription Amount or the Company in the event that any federal, state or local court, governmental, legislative, judicial, administrative or regulatory authority, agency, commission, body or other governmental entity or self regulatory organization or stock exchange (each, a "Governmental Authority") shall have issued any statute, law, ordinance, rule, regulation, judgment, decree, injunction or other order (whether temporary, preliminary or permanent) that is in effect and restrain, enjoins or otherwise prohibits consummation of any transaction contemplated by this Agreement (collectively, an "Order") and such Order shall have become final and nonappealable; or

5.1.3. by the Company if there has been a material breach of any representation, warranty, covenant or agreement made by Purchasers in this Agreement, or any such representation and warranty shall have become untrue after the date of this Agreement, such that Section 4.1(a) would not be satisfied and such breach or condition is not curable or, if curable, is not cured within five (5) days after written notice thereof is given by the Company to Purchasers (but in any event not later than the Termination Date); or

5.1.4. by Purchasers representing a majority of the Total Subscription Amount if there has been a material breach of any representation, warranty, covenant or agreement made by the Company in this Agreement, or any such representation and warranty shall have become untrue after the date of this Agreement, such that Section 4.2(a) would not be satisfied and such breach or condition is not curable or, if curable, is not cured within five (5) days after written notice thereof is given by Purchaser to the Company (but in any event not later than the Termination Date); or

5.1.5. by the mutual written consent of the Purchasers representing a majority of the Total Subscription Amount and the Company.

5.2. In the event of termination of this Agreement as provided in this Section 5.2, this Agreement shall forthwith become void, except that this Article 5 and Article 7 herein shall survive. No such termination shall relieve any party from liability for any breach of this Agreement, material misrepresentation or fraud.

ARTICLE 6

INDEMNIFICATION

6.1. General Indemnity. The Company agrees to indemnify and hold harmless each Purchaser and its respective directors, officers, affiliates, members, managers, employees, agents, successors and assigns (collectively, "Indemnified Parties") from and against any and all losses, liabilities, deficiencies, costs, damages and expenses (including, without limitation, reasonable attorneys' fees, charges and disbursements) incurred by any Indemnified Party as a result of, arising out of or based upon (i) any inaccuracy in or breach of the Company's representations or warranties in this Agreement; (ii) the Company's breach of agreements or covenants made by the Company in this Agreement or any Transaction Document; (iii) any third party claims arising out of or resulting from the transactions contemplated by this Agreement or any other Transaction Document (unless such claim is based upon conduct by such Indemnified Party that constitutes fraud, gross negligence or willful misconduct); (iv) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Prospectus, any Prospectus Supplement or any preliminary prospectus, or arising out of or based upon any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages, liabilities or judgments are caused by any such untrue statement or omission or alleged untrue statement or omission based upon information relating to any Purchaser furnished in writing to the Company by or on behalf of any Purchaser; (v) any breach by the Company of the Securities Act or the rules promulgated thereunder, or (vi) any third party claims arising directly or indirectly out of such Indemnified Party's status as owner of the Securities or the actual, alleged or deemed control or ability to influence the Company or any Subsidiary (unless such claim is based upon conduct by such Purchaser that constitutes fraud, gross negligence or willful misconduct).

6.2. Indemnification Procedure. With respect to any third-party claims giving rise to a claim for indemnification, the Indemnified Party will give written notice to the Company of such third party claim; *provided*, that the failure of any party entitled to indemnification hereunder to give notice as provided herein shall not relieve the Company of its obligations under this Article 5 except to the extent that the Company is actually materially prejudiced by such failure to give notice. In case any such action, proceeding or claim is brought against an Indemnified Party in respect of which indemnification is sought hereunder, the Company shall be entitled to participate in and, unless in the reasonable judgment of the Indemnified Party a conflict of interest between it and the Indemnified Party exists with respect to such action, proceeding or claim (in which case the Company shall be responsible for the reasonable fees and expenses of one separate counsel for the Indemnified Parties), to assume the defense thereof with counsel satisfactory to the Indemnified Party. In the event that the Company advises an Indemnified Party that it will not contest such a claim for indemnification hereunder, or fails, within 10 days of receipt of any indemnification notice to notify, in writing, such person or entity of its election to defend, settle or compromise, at its sole cost and expense, any action, proceeding or claim (or discontinues its defense at any time after it commences such defense), then the Indemnified Party may, at its option, defend, settle or otherwise compromise or pay such action or claim. In any event, unless and until the Company elects in writing to assume and does so assume the defense of any such claim, proceeding or action, the Indemnified Party's costs and expenses arising out of the defense, settlement or compromise of any such action, claim or proceeding shall be losses subject to indemnification hereunder. The Company shall keep the Indemnified Party fully apprised at all times as to the status of the defense or any settlement negotiations with respect thereto. If the Company elects to defend any such action or claim, then the Indemnified Party shall be entitled to participate in such defense with counsel of its choice at its sole cost and expense. Notwithstanding anything in this Article 6 to the contrary, the Company shall not, without the Indemnified Party's prior written consent, settle or compromise any claim or consent to entry of any judgment in respect thereof. The indemnification obligations to defend the Indemnified Party required by this Article 6 shall be made by periodic payments of the amount thereof during the course of investigation or defense, as and when bills are received or expense, loss, damage or liability is incurred, so long as the Indemnified Party shall refund such moneys if it is ultimately determined by a court of competent jurisdiction that such party was not entitled to indemnification. The indemnity agreements contained herein shall be in addition to (a) any cause of action or similar rights of the Indemnified Party against the Company or others, and (b) any liabilities the Company may be subject to pursuant to the law.

6.3. Contribution. If the indemnification provided for in Section 6.1 is unavailable to any Indemnified Party thereunder in respect of any losses, liabilities, deficiencies, costs, damages or expenses (or actions in respect thereof) referred to in such Section, then the Company shall contribute to the amount paid or payable by such Indemnified Party as a result of such losses, liabilities, deficiencies, costs, damages or expenses (or actions in respect thereof) in such proportion as is appropriate to reflect the relative fault of the Company on the one hand and such Indemnified Party on the other.

ARTICLE 7

MISCELLANEOUS

7.1. Fees and Expenses. The Company shall reimburse each Purchaser for all costs and expenses reasonably incurred by such Purchaser in connection with the negotiation, drafting and execution of the Transaction Documents and the transactions contemplated thereby (including all legal fees, travel, disbursements and due diligence in connection therewith and all fees incurred in connection with any necessary regulatory filings and clearances); *provided, however*, that the amount of such costs and expenses due to the Purchasers shall be reduced by an amount equal to \$25,000, which has been previously advanced to the Purchasers; *provided, further, however*, that the Company shall have no obligation to reimburse the Purchasers for any such costs and expenses to the extent that they exceed, in the aggregate, \$75,000, unless otherwise agreed in writing by the Company. In addition, the Company shall pay all reasonable fees and expenses incurred by any Purchaser in connection with the enforcement of this Agreement or any of the other Transaction Documents, including, without limitation, all reasonable attorneys' fees and expenses; *provided, however*, that in the event that the enforcement of this Agreement is contested and it is finally judicially determined that such Purchaser was not entitled to the enforcement of the Transaction Document sought, then the Purchaser seeking enforcement shall reimburse the Company for all fees and expenses paid pursuant to this sentence. The Company shall be responsible for its own fees and expenses incurred in connection with the transactions contemplated by this Agreement, including the fees and expenses of the Placement Agents. The Company shall pay all fees of its transfer agent, stamp taxes and other taxes and duties levied in connection with the delivery of the Securities to each Purchaser.

7.2. Specific Performance; Consent to Jurisdiction; Venue.

(a) The Company and the Purchasers acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement or the other Transaction Documents were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent or cure breaches of the provisions of this Agreement or the other Transaction Documents and to enforce specifically the terms and provisions hereof or thereof without the requirement of posting a bond or providing any other security, this being in addition to any other remedy to which any of them may be entitled by law or equity.

(b) The parties agree that venue for any dispute arising under this Agreement will lie exclusively in the state or federal courts located in New York County, New York, and the parties irrevocably waive any right to raise forum non conveniens or any other argument that New York is not the proper venue. The parties irrevocably consent to personal jurisdiction in the state and federal courts in New York County of the state of New York. The Company and each Purchaser consent to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing in this Section 7.2 shall affect or limit any right to serve process in any other manner permitted by law. The parties hereby waive all rights to a trial by jury.

7.3. Amendment. No provision of this Agreement may be waived or amended except in a written instrument signed by the Company and Purchasers holding at least a majority of the outstanding principal amount of the Preferred Shares; provided, that any waiver or amendment of any provision effecting the rights, obligations or conditions of, or relating to, the Placement Agents shall not be effective without the written consent of Cowen and Company, LLC.

7.4. Notices. Any notice, demand, request, waiver or other communication required or permitted to be given hereunder shall be in writing and shall be effective (a) upon hand delivery by telecopy or facsimile at the address or number designated below (if delivered on a business day during normal business hours where such notice is to be received), or the first business day following such delivery (if delivered other than on a business day during normal business hours where such notice is to be received) or (b) on the second business day following the date of mailing by express courier service, fully prepaid, addressed to such address, or upon actual receipt of such mailing, whichever shall first occur or (c) upon delivery by e-mail (if delivered on a Business Day during normal business hours where such notice is to be received) upon recipient's actual receipt and acknowledgement of such e-mail. The addresses for such communications shall be:

If to the Company:

Neostem, Inc.
420 Lexington Avenue
Suite 450
New York, New York
Attention: General Counsel
Telephone No.: 212-584-4180
Facsimile No.: 646-514-7787
E-mail: cvaczy@neostem.com

with a copy to:

Lowenstein Sandler PC
65 Livingston Avenue
Roseland, New Jersey 07068
Attention: Alan Wovsaniker
Telephone No.: (973) 597 2564
Telecopy No.: (973) 597 2565
E-mail: awovsaniker@lowenstein.com

If to any Purchaser:

At the address of such Purchaser set forth on such Purchaser's signature page

With a copy to (which shall not constitute notice):

Kleinberg, Kaplan, Wolff & Cohen, P.C.
551 Fifth Avenue, 18th Floor
New York, New York 10176
Attention: Lawrence D. Hui, Esq.
Telephone No.: (212) 986-6000
E-mail: lhui@kkwc.com

Any party hereto may from time to time change its address for notices by giving written notice of such changed address to the other party hereto.

7.5. Waivers. No waiver by either party of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right accruing to it thereafter. No consideration shall be offered or paid to any Purchaser to amend or waive or modify any provision of this Agreement unless the same consideration is also offered to all of the parties to this Agreement then holding Preferred Shares. This provision constitutes a separate right granted to each Purchaser by the Company and shall not in any way be construed as the Purchasers acting in concert or as a group with respect to the purchase disposition or voting of Securities or otherwise.

7.6. Headings. The article, section and subsection headings in this Agreement are for convenience only and shall not constitute a part of this Agreement for any other purpose and shall not be deemed to limit or affect any of the provisions hereof.

7.7. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. The Purchasers may assign the Securities and its rights under this Agreement and the other Transaction Documents and any other rights hereto and thereto without the consent of the Company. The Company may not assign or delegate any of its rights or obligations hereunder or under any Transaction Document.

7.8. No Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other person or entity, except that the Placement Agents are intended third party beneficiaries of the representations, warranties and agreements of the Company contained herein.

7.9. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York, without giving effect to any of the conflicts of law principles that would result in the application of the substantive law of another jurisdiction. This Agreement shall not be interpreted or construed with any presumption against the party causing this Agreement to be drafted.

7.10. Survival. The covenants, agreements and representations and warranties of the Company under the Transaction Documents shall survive the execution and delivery hereof indefinitely.

7.11. Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and shall become effective when counterparts have been signed by each party and delivered to the other parties hereto, it being understood that all parties need not sign the same counterpart. Signature pages to this Agreement may be delivered by facsimile or other means of electronic transmission.

7.12. Publicity. Subject to Section 3.7, the Company agrees that it will not disclose, and will not include in any public announcement, the names of the Purchasers without the consent of the Purchasers, which consent shall not be unreasonably withheld or delayed, or unless and until such disclosure is required by law, rule or applicable regulation, and then only to the extent of such requirement. Notwithstanding the foregoing, the Purchasers consent to being identified in any filings the Company makes with the Commission to the extent required by law or the rules and regulations of the Commission.

7.13. Severability. The provisions of this Agreement are severable and, in the event that any court of competent jurisdiction shall determine that any one or more of the provisions or part of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision or part of a provision of this Agreement and this Agreement shall be reformed and construed as if such invalid or illegal or unenforceable provision, or part of such provision, had never been contained herein, so that such provisions would be valid, legal and enforceable to the maximum extent possible.

7.14. Further Assurances. From and after the date of this Agreement, upon the request of the Purchasers or the Company, the Company and each Purchaser shall execute and deliver such instruments, documents and other writings as may be reasonably necessary or desirable to confirm and carry out and to effectuate fully the intent and purposes of this Agreement and the other Transaction Documents

7.15. Independent Nature of Purchasers' Obligations and Rights. The rights and obligations of each Purchaser under any Transaction Document are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance of the obligations of any other Purchaser under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Purchaser pursuant hereto or thereto, shall be deemed to constitute the Purchaser as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. The Company acknowledges, that each Purchaser has independently participated in the negotiation of the transaction contemplated hereby with the advice of its own counsel and advisors. Each Purchaser shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Agreement or out of any other Transaction Documents, and it shall not be necessary for any other Purchaser to be joined as an additional party in any proceeding for such purpose.

7.16. Time Is of the Essence. Time is of the essence of this Agreement and each Transaction Document.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Securities Purchase Agreement to be duly executed by their respective authorized officers as of the date first above written.

NEOSTEM, INC.

By: /s/ Robin L. Smith

Name: Robin L. Smith

Title: Chief Executive Officer

JGB MANAGEMENT INC.

By: /s/ Brett Cohen

Name: Brett Cohen

Title: Director

[SIGNATURE PAGES CONTINUE]

[PURCHASER SIGNATURE PAGES TO SECURITIES PURCHASE AGREEMENT]

IN WITNESS WHEREOF, the undersigned have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

Name of Purchaser: _____

Signature of Authorized Signatory of Purchaser: _____

Name of Authorized Signatory: _____

Title of Authorized Signatory: _____

Email Address of Purchaser: _____

Fax Number of Purchaser: _____

Address for Notice of Purchaser: _____

Address for Delivery of Securities for Purchaser (if not same as address for notice):

Subscription Amount: \$ _____

[SIGNATURE PAGES CONTINUE]

EXHIBIT A

LIST OF PURCHASERS AND SUBSCRIPTION AMOUNT

A-1

EXHIBIT B

FORM OF CERTIFICATE OF DESIGNATIONS

B-1

EXHIBIT C
FORM OF WARRANT

C-1

EXHIBIT D

FORM OF ESCROW AGREEMENT

D-1

EXHIBIT E

FIRPTA CERTIFICATE

At no time during the period beginning five years prior to [date] and ending on [date] was Neostem, Inc. a “United States real property holding corporation,” as such term is defined by Section 897(b)(2) of the Internal Revenue Code of 1986, as amended.

Under penalties of perjury I declare that I have examined this certification and, to the best of my knowledge and belief, it is true, correct and complete.

By: _____
Title: _____
Date: _____

EXHIBIT F

FORM OF VOTING AGREEMENT

F-1

EXHIBIT G
OPINION OF COUNSEL TO COMPANY

G-1

ESCROW AGREEMENT

This Escrow Agreement dated this [] day of November 2010 (the "Escrow Agreement"), is entered into by and among Neostem Inc., a Delaware Corporation ("Neostem"), JGB Management Inc., a Delaware Corporation, as agent ("Agent," and together with Neostem, the "Parties," and each individually, a "Party") for the purchasers under that certain Securities Purchase Agreement dated as of November 16, 2010 (the "Purchase Agreement") among Neostem and the purchasers party thereto (the "Purchasers"), and Wells Fargo Bank, National Association, as escrow agent ("Escrow Agent").

RECITALS

A. Neostem and the Purchasers have entered into Purchase Agreement pursuant to which Neostem has agreed to sell, and the Purchasers have agreed to purchase, Senior Convertible Preferred Stock, Common Stock and Warrants (the "Securities") to be issued pursuant to the Certificate of Designations of the Powers, Preferences and Relative, Participating, Optional and Other Special Rights of Preferred Stock and Qualifications, Limitations and Restrictions Thereof of 7% Senior Convertible Preferred Stock for Neostem, Inc. dated November 16, 2010 (the "Certificate of Designations") for consideration of \$10,000,000 (the "Purchase Price"). Capitalized terms used herein that are not defined shall have the meanings given to them in the Certificate of Designations.

B. The Purchase Agreement requires that twenty-five per cent of the Purchase Price (the "Escrowed Amount") be deposited into escrow to secure certain payment obligations of Neostem to the Purchasers under the Certificate of Designations;

C. The Parties agree to place the Escrowed Amount in escrow and the Escrow Agent agrees to hold and distribute such funds in accordance with the terms of this Escrow Agreement.

In consideration of the promises and agreements of the Parties and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties and the Escrow Agent agree as follows:

ARTICLE 1
ESCROW DEPOSIT

Section 1.1. Receipt of Escrow Property. Upon execution hereof, Agent shall deliver to the Escrow Agent the amount of \$2,500,000 (the "Escrow Property") in immediately available funds. Neostem may, from time to time, as obligated under the Certificate of Designations, deposit additional funds into the escrow, which funds will become "Escrow Property."

Section 1.2. Investments.

(a) The Escrow Agent is authorized and directed to deposit, transfer, hold and invest the Escrow Property and any investment income thereon as set forth in Exhibit A hereto, or as set forth in any subsequent written instruction signed by the Parties. Any investment earnings and income on the Escrow Property shall become part of the Escrow Property, and shall be disbursed in accordance with Section 1.3 or Section 1.5 of this Escrow Agreement.

(b) The Escrow Agent is hereby authorized and directed to sell or redeem any such investments as it deems necessary to make any payments or distributions required under this Escrow Agreement. The Escrow Agent shall have no responsibility or liability for any loss which may result from any investment or sale of investment made pursuant to this Escrow Agreement; provided that the Escrow Agent has invested the Escrow Property in accordance with Exhibit A. The Escrow Agent is hereby authorized, in making or disposing of any investment permitted by this Escrow Agreement, to deal with itself (in its individual capacity) or with any one or more of its affiliates, whether it or any such affiliate is acting as agent of the Escrow Agent or for any third person or dealing as principal for its own account. The Parties acknowledge that the Escrow Agent is not providing investment supervision, recommendations, or advice.

Section 1.3. Disbursements.

(a) Subject to subsection (d) below, Escrow Agent shall hold the Escrowed Property and all interest accrued thereon and shall dispose of the same only in accordance with the following provisions:

(i) upon receipt of a written notice from the Agent stating (1) that Neostem failed to pay when due the cash portion of the Mandatory Redemption Price under Section 6(c) of the Certificate of Designations and/or the Stock Replacement Payment or cash payments due under Section 6(d)(ii) of the Certificate of Designations and (2) the dollar amount of the unpaid Mandatory Redemption Price or Stock Replacement Payment, as appropriate, the Escrow Agent shall deliver to the Agent, for the benefit of the Purchasers, cash equal to the lesser of the unpaid Mandatory Redemption Price and/or Stock Replacement Payment and the remaining balance of the Escrow Property (including any accrued interest);

(ii) upon receipt of a written notice from the Agent stating (1) that Neostem failed to pay any amount due in cash under Section 7 of the Certificate of Designations and (2) the amount of damages due to it under Section 7(c) of the Certificate of Designations, the Escrow Agent shall deliver to the Agent, for the benefit of the Purchasers, cash equal to the lesser of the damages due and the remaining balance of the Escrow Property (including any accrued interest);

(iii) upon receipt of a written notice from the Agent stating (1) that Neostem failed to pay any amount due under Section 8 of the Certificate of Designations and (2) the amount due and owing thereunder, the Escrow Agent shall deliver to the Agent, for the benefit of the Purchasers, cash equal to the lesser of the damages due and the remaining balance of the Escrow Property (including any accrued interest);

(iv) upon receipt of a written notice from the Agent stating (1) that Neostem has an obligation to repurchase all or a portion of the Preferred Shares pursuant to Section 9 of the Certificate of Designations, (2) that Neostem has failed to repurchase the required portion of the Preferred Shares when required to do so and (3) the amount due to the Purchasers, the Escrow Agent shall deliver to the Agent, for the benefit of the Purchasers, cash equal to the lesser of the amount due and the remaining balance of the Escrow Property (including any accrued interest);

(v) upon receipt of a written notice from Neostem stating (1) that no amounts are presently due and owing to the Purchasers under the Certificate of Designations and (2) the aggregate Liquidation Preference of the outstanding Preferred Stock as of the date of the notice (the "Liquidation Preference Amount") is less than the balance of the Escrow Property, the Escrow Agent shall deliver to Neostem cash equal to the difference between the Liquidation Preference Amount and the remaining balance of the Escrow Property (including any accrued interest); and

(vi) upon a joint written direction signed by the Parties, the Escrow Agent shall disburse the Escrow, or the appropriate portion thereof, in accordance with the written direction.

(b) Any notice given by a Party to the Escrow Agent under subsection (a) above shall include the relevant dollar amount related to that notice and shall also be given to the other Party simultaneously.

(c) The Escrow Agent's sole duty is to accept notice under subsection (a) and shall have no duty to determine nor shall be liable to ascertain the validity of the claims of the Agent or Neostem under subsection (a).

(d) The Escrow Agent shall disburse any Escrow Property eight (8) business days after receiving notice under subsection (a) unless it receives written notice pursuant to Subsection (e) hereto, upon which subsection (e) shall govern.

(e) To the extent that the non-requesting Party objects in good faith to any request for payment, such Party must deliver a written objection notice, stating the basis for such objection, to the Escrow Agent and the other Party within seven (7) business days after receipt of the notice requesting payment and such objection shall be resolved in accordance with Section 3.5 hereof.

(f) The Escrow Agent shall deliver the applicable portion of the Escrow Property at the election of the Party entitled to receive the same by (i) a good, unendorsed check of Escrow Agent payable to the order of such Party, or (ii) a bank wire transfer to an account designated by such Party.

Section 1.4. Income Tax Allocation and Reporting.

(a) The Parties agree that, for tax reporting purposes, all interest and other income from investment of the Escrow Property shall, as of the end of each calendar year and to the extent required by the Internal Revenue Service, be reported as having been earned by Neostem, whether or not such income was disbursed during such calendar year.

(b) Prior to closing, the Parties shall provide the Escrow Agent with certified tax identification numbers by furnishing appropriate forms W-9 or W-8 and such other forms and documents that the Escrow Agent may request. The Parties understand that if such tax reporting documentation is not provided and certified to the Escrow Agent, the Escrow Agent may be required by the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, to withhold a portion of any interest or other income earned on the investment of the Escrow Property.

(c) To the extent that the Escrow Agent becomes liable for the payment of any taxes in respect of income derived from the investment of the Escrow Property, the Escrow Agent shall satisfy such liability to the extent possible from the Escrow Property. The Parties, jointly and severally, shall indemnify, defend and hold the Escrow Agent harmless from and against any tax, late payment, interest, penalty or other cost or expense that may be assessed against the Escrow Agent on or with respect to the Escrow Property and the investment thereof unless such tax, late payment, interest, penalty or other expense was directly caused by the gross negligence or willful misconduct of the Escrow Agent. The indemnification provided by this Section 1.4(c) is in addition to the indemnification provided in Section 3.1 and shall survive the resignation or removal of the Escrow Agent and the termination of this Escrow Agreement.

Section 1.5. Termination. Upon the disbursement of all of the Escrow Property, including any interest and investment earnings thereon, this Escrow Agreement shall terminate and be of no further force and effect except that the provisions of Sections 1.4(c), 3.1 and 3.2 hereof shall survive termination.

ARTICLE 2
DUTIES OF THE ESCROW AGENT

Section 2.1. Scope of Responsibility. Notwithstanding any provision to the contrary, the Escrow Agent is obligated only to perform the duties specifically set forth in this Escrow Agreement, which shall be deemed purely ministerial in nature. Under no circumstances will the Escrow Agent be deemed to be a fiduciary to any Party or any other person under this Escrow Agreement. The Escrow Agent will not be responsible or liable for the failure of any Party to perform in accordance with this Escrow Agreement. The Escrow Agent shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument, or document other than this Escrow Agreement, whether or not an original or a copy of such agreement has been provided to the Escrow Agent; and the Escrow Agent shall have no duty to know or inquire as to the performance or nonperformance of any provision of any such agreement, instrument, or document. References in this Escrow Agreement to any other agreement, instrument, or document are for the convenience of the Parties, and the Escrow Agent has no duties or obligations with respect thereto. This Escrow Agreement sets forth all matters pertinent to the escrow contemplated hereunder, and no additional obligations of the Escrow Agent shall be inferred or implied from the terms of this Escrow Agreement or any other agreement.

Section 2.2. Attorneys and Agents. The Escrow Agent shall be entitled to rely on and shall not be liable for any action taken or omitted to be taken by the Escrow Agent in accordance with the advice of counsel or other professionals retained or consulted by the Escrow Agent. The Escrow Agent shall be reimbursed as set forth in Section 3.1 for any and all compensation (fees, expenses and other costs) paid and/or reimbursed to such counsel and/or professionals. The Escrow Agent may perform any and all of its duties through its agents, representatives, attorneys, custodians, and/or nominees.

Section 2.3. Reliance. The Escrow Agent shall not be liable for any action taken or not taken by it in accordance with the direction or consent of the Parties or their respective agents, representatives, successors, or assigns. The Escrow Agent shall not be liable for acting or refraining from acting upon any notice, request, consent, direction, requisition, certificate, order, affidavit, letter, or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons, without further inquiry into the person's or persons' authority. Concurrent with the execution of this Escrow Agreement, the Parties shall deliver to the Escrow Agent authorized signers' forms in the form of Exhibit B-1 and Exhibit B-2 to this Escrow Agreement.

Section 2.4. Right Not Duty Undertaken. The permissive rights of the Escrow Agent to do things enumerated in this Escrow Agreement shall not be construed as duties.

Section 2.5. No Financial Obligation. No provision of this Escrow Agreement shall require the Escrow Agent to risk or advance its own funds or otherwise incur any financial liability or potential financial liability in the performance of its duties or the exercise of its rights under this Escrow Agreement.

ARTICLE 3
PROVISIONS CONCERNING THE ESCROW AGENT

Section 3.1. Indemnification. The Parties, jointly and severally, shall indemnify, defend and hold harmless the Escrow Agent from and against any and all loss, liability, cost, damage and expense, including, without limitation, attorneys' fees and expenses or other professional fees and expenses which the Escrow Agent may suffer or incur by reason of any action, claim or proceeding brought against the Escrow Agent, arising out of or relating in any way to this Escrow Agreement or any transaction to which this Escrow Agreement relates, unless such loss, liability, cost, damage or expense shall have been finally adjudicated to have been directly caused by the willful misconduct or gross negligence of the Escrow Agent. The provisions of this Section 3.1 shall survive the resignation or removal of the Escrow Agent and the termination of this Escrow Agreement.

Section 3.2. Limitation of Liability. THE ESCROW AGENT SHALL NOT BE LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY (I) DAMAGES, LOSSES OR EXPENSES ARISING OUT OF THE SERVICES PROVIDED HEREUNDER, OTHER THAN DAMAGES, LOSSES OR EXPENSES WHICH HAVE BEEN FINALLY ADJUDICATED TO HAVE DIRECTLY RESULTED FROM THE ESCROW AGENT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES OR LOSSES OF ANY KIND WHATSOEVER (INCLUDING WITHOUT LIMITATION LOST PROFITS), EVEN IF THE ESCROW AGENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES AND REGARDLESS OF THE FORM OF ACTION.

Section 3.3. Resignation or Removal. The Escrow Agent may resign by furnishing written notice of its resignation to the Parties, and the Parties may remove the Escrow Agent by furnishing to the Escrow Agent a joint written notice of its removal along with payment of all fees and expenses to which it is entitled through the date of termination. Such resignation or removal, as the case may be, shall be effective thirty (30) days after the delivery of such notice or upon the earlier appointment of a successor, and the Escrow Agent's sole responsibility thereafter shall be to safely keep the Escrow Property and to deliver the same to a successor escrow agent as shall be appointed by the Parties, as evidenced by a joint written notice filed with the Escrow Agent or in accordance with a court order. If the Parties have failed to appoint a successor escrow agent prior to the expiration of thirty (30) days following the delivery of such notice of resignation or removal, the Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor escrow agent or for other appropriate relief, and any such resulting appointment shall be binding upon the Parties.

Section 3.4. Compensation. The Escrow Agent shall be entitled to compensation for its services as stated in the fee schedule attached hereto as Exhibit C, which compensation shall be paid by Neostem. The fee agreed upon for the services rendered hereunder is intended as full compensation for the Escrow Agent's services as contemplated by this Escrow Agreement; provided, however, that in the event that the conditions for the disbursement of funds under this Escrow Agreement are not fulfilled, or the Escrow Agent renders any service not contemplated in this Escrow Agreement, or there is any assignment of interest in the subject matter of this Escrow Agreement, or any material modification hereof, or if any material controversy arises hereunder, or the Escrow Agent is made a party to any litigation pertaining to this Escrow Agreement or the subject matter hereof, then the Escrow Agent shall be compensated, at a rate determined in good faith by the Parties, for such extraordinary services and reimbursed for all costs and expenses, including reasonable attorneys' fees and expenses, occasioned by any such delay, controversy, litigation or event. If any amount due to the Escrow Agent hereunder is not paid within thirty (30) days of the date due, the Escrow Agent in its sole discretion may charge interest on such amount up to the highest rate permitted by applicable law. The Escrow Agent shall have, and is hereby granted, a prior lien upon the Escrow Property with respect to its unpaid fees, non-reimbursed expenses and unsatisfied indemnification rights, superior to the interests of any other persons or entities and is hereby granted the right to set off and deduct any unpaid fees, non-reimbursed expenses and unsatisfied indemnification rights from the Escrow Property.

Section 3.5. Disagreements. If any conflict, disagreement or dispute arises between, among, or involving any of the parties hereto concerning the meaning or validity of any provision hereunder or concerning any other matter relating to this Escrow Agreement, or the Escrow Agent is in doubt as to the action to be taken hereunder, the Escrow Agent may, at its option, retain the Escrow Property until the Escrow Agent (i) receives a final non-appealable order of a court of competent jurisdiction or a final non-appealable arbitration decision directing delivery of the Escrow Property, (ii) receives a written agreement executed by each of the parties involved in such disagreement or dispute directing delivery of the Escrow Property, in which event the Escrow Agent shall be authorized to disburse the Escrow Property in accordance with such final court order, arbitration decision, or agreement, or (iii) files an interpleader action in any court of competent jurisdiction, and upon the filing thereof, the Escrow Agent shall be relieved of all liability as to the Escrow Property and shall be entitled to recover attorneys' fees, expenses and other costs incurred in commencing and maintaining any such interpleader action. The Escrow Agent shall be entitled to act on any such agreement, court order, or arbitration decision without further question, inquiry, or consent.

Section 3.6. Merger or Consolidation. Any corporation or association into which the Escrow Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which the Escrow Agent is a party, shall be and become the successor escrow agent under this Escrow Agreement and shall have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

Section 3.7. Attachment of Escrow Property; Compliance with Legal Orders. In the event that any Escrow Property shall be attached, garnished or levied upon by any court order, or the delivery thereof shall be stayed or enjoined by an order of a court, or any order, judgment or decree shall be made or entered by any court order affecting the Escrow Property, the Escrow Agent is hereby expressly authorized, in its sole discretion, to respond as it deems appropriate or to comply with all writs, orders or decrees so entered or issued, or which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction. In the event that the Escrow Agent obeys or complies with any such writ, order or decree it shall not be liable to any of the Parties or to any other person, firm or corporation, should, by reason of such compliance notwithstanding, such writ, order or decree be subsequently reversed, modified, annulled, set aside or vacated.

Section 3.8 Force Majeure. The Escrow Agent shall not be responsible or liable for any failure or delay in the performance of its obligation under this Escrow Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; wars; acts of terrorism; civil or military disturbances; sabotage; epidemic; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that the Escrow Agent shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

ARTICLE 4
MISCELLANEOUS

Section 4.1. Successors and Assigns. This Escrow Agreement shall be binding on and inure to the benefit of the Parties and the Escrow Agent and their respective successors and permitted assigns. No other persons shall have any rights under this Escrow Agreement. No assignment of the interest of any of the Parties shall be binding unless and until written notice of such assignment shall be delivered to the other Party and the Escrow Agent and shall require the prior written consent of the other Party and the Escrow Agent (such consent not to be unreasonably withheld).

Section 4.2. Escheat. The Parties are aware that under applicable state law, property which is presumed abandoned may under certain circumstances escheat to the applicable state. The Escrow Agent shall have no liability to the Parties, their respective heirs, legal representatives, successors and assigns, or any other party, should any or all of the Escrow Property escheat by operation of law.

Section 4.3. Notices. All notices, requests, demands, and other communications required under this Escrow Agreement shall be in writing, in English, and shall be deemed to have been duly given if delivered (i) personally, (ii) by facsimile transmission with written confirmation of receipt, (iii) by overnight delivery with a reputable national overnight delivery service, or (iv) by mail or by certified mail, return receipt requested, and postage prepaid. If any notice is mailed, it shall be deemed given five business days after the date such notice is deposited in the United States mail. If notice is given to a party, it shall be given at the address for such party set forth below. It shall be the responsibility of the Parties to notify the Escrow Agent and the other Party in writing of any name or address changes. In the case of communications delivered to the Escrow Agent, such communications shall be deemed to have been given on the date received by the Escrow Agent.

If to the Agent:

JGB Management Inc.
400 Madison Avenue
Suite 8D
New York, New York 10017
Attention: Brett Cohen
Telephone: 212-355-5771
Facsimile: 212-253-4093

If to Neostem:

Neostem, Inc.
420 Lexington Avenue
Suite 450
New York, New York 10170
Attention: General Counsel
Telephone No.: 212-584-4180
Facsimile No.: 646-514-7787
E-mail: cvaczy@neostem.com

If to the Escrow Agent:

Wells Fargo Bank, National Association
45 Broadway, 14th Floor
New York, NY 10006
Attention: Matthew Sherman; Corporate, Municipal and Escrow Solutions
Telephone: (212) 515-1573
Facsimile: (212) 509-1716

Section 4.4. Governing Law. This Escrow Agreement shall be governed by and construed in accordance with the internal laws of the State of New York.

Section 4.5. Entire Agreement. This Escrow Agreement sets forth the entire agreement and understanding of the parties related to the Escrow Property.

Section 4.6. Amendment. This Escrow Agreement may be amended, modified, superseded, rescinded, or canceled only by a written instrument executed by the Parties and the Escrow Agent.

Section 4.7. Waivers. The failure of any party to this Escrow Agreement at any time or times to require performance of any provision under this Escrow Agreement shall in no manner affect the right at a later time to enforce the same performance. A waiver by any party to this Escrow Agreement of any such condition or breach of any term, covenant, representation, or warranty contained in this Escrow Agreement, in any one or more instances, shall neither be construed as a further or continuing waiver of any such condition or breach nor a waiver of any other condition or breach of any other term, covenant, representation, or warranty contained in this Escrow Agreement.

Section 4.8. Headings. Section headings of this Escrow Agreement have been inserted for convenience of reference only and shall in no way restrict or otherwise modify any of the terms or provisions of this Escrow Agreement.

Section 4.9. Counterparts. This Escrow Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original, and such counterparts shall together constitute one and the same instrument.

[The remainder of this page left intentionally blank.]

IN WITNESS WHEREOF, this Escrow Agreement has been duly executed as of the date first written above.

NEOSTEM INC.

By: _____

Name: _____

Title: _____

JGB MANAGEMENT INC., as Agent for the Purchasers

By: _____

Name: _____

Title: _____

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Escrow Agent

By: _____

Name: _____

Title: _____

EXHIBIT A

**Agency and Custody Account Direction
For Cash Balances
Wells Fargo Money Market Deposit Accounts**

Direction to use the following Wells Fargo Money Market Deposit Accounts for Cash Balances for the escrow account or accounts (the "Account") established under the Escrow Agreement to which this Exhibit A is attached.

You are hereby directed to deposit, as indicated below, or as we shall direct further in writing from time to time, all cash in the Account in the following money market deposit account of Wells Fargo Bank, National Association:

Wells Fargo Money Market Deposit Account (MMDA)

We understand that amounts on deposit in the MMDA are insured, subject to the applicable rules and regulations of the Federal Deposit Insurance Corporation (FDIC), in the basic FDIC insurance amount of \$100,000 per depositor, per insured bank. This includes principal and accrued interest up to a total of \$100,000. *Note: On May 20, 2009, FDIC deposit insurance temporarily increased from \$100,000 to \$250,000 per depositor through December 31, 2013.*

We acknowledge that we have full power to direct investments of the Account.

We understand that we may change this direction at any time and that it shall continue in effect until revoked or modified by us by joint written notice to you.

Authorized Representative
Neostem Inc.

Authorized Representative
JGB Management Inc, as Agent

Date

Date

EXHIBIT B-1

Certificate as to Authorized Signatures

The specimen signatures shown below are the specimen signatures of the individuals who have been designated as authorized representatives of Neostem Inc. and are authorized to initiate and approve transactions of all types for the escrow account or accounts established under the Escrow Agreement to which this Exhibit B-1 is attached, on behalf of Neostem Inc.

Name / Title

Specimen Signature

Name

Signature

Title

Name

Signature

Title

Name

Signature

Title

Name

Signature

Title

EXHIBIT B-2

Certificate as to Authorized Signatures

The specimen signatures shown below are the specimen signatures of the individuals who have been designated as authorized representatives of the Agent and are authorized to initiate and approve transactions of all types for the escrow account or accounts established under the Escrow Agreement to which this Exhibit B-2 is attached, on behalf of the Agent.

Name / Title

Specimen Signature

Name

Signature

Title

Name

Signature

Title

Name

Signature

Title

Name

Signature

Title

EXHIBIT C

FEEES OF ESCROW AGENT

NeoStem Announces Pricing of Concurrent Offerings for \$19 Million in Gross Proceeds

NEW YORK, Nov 16 /PRNewswire-FirstCall/ -- NeoStem, Inc. (NYSE Amex: NBS) ("NeoStem" or the "Company") an international biopharmaceutical company with product and service revenues, global research and development capabilities and operations in three distinct business units, U.S. adult stem cells, China adult stem cells, and China pharmaceuticals today announced the pricing of concurrent offerings.

An underwritten registered offering of 6,337,980 common units at \$1.45 per unit. Each unit consists of one share of common stock and a warrant to purchase 0.5 of a share of common stock with a per share exercise price of \$1.85. Cowen and Company, LLC acted as sole book-running manager and Maxim Group LLC and National Securities Corporation acted as co-managers for this offering.

A registered direct offering of 10,582,011 preferred units. Each unit consists of one share of series E 7% senior convertible preferred stock convertible at \$2.0004, maturing May 20, 2013, a warrant to purchase 0.25 of a share of common stock with a per share exercise price of \$2.0874 and 0.0155 shares of common stock. Cowen and Company, LLC and LifeTech Capital, a division of Aurora Capital LLC, acted as co-placement agents for this offering.

From the two offerings, which are running concurrently, the company expects to receive \$19 million in gross proceeds, prior to deducting underwriting discounts and commissions, placement agent fees and offering expenses payable by the company. These funds will give Neostem the ability to proceed with its acquisition of Progenitor Cell Therapy LLC, and focus on growing the cord blood and adult stem cell banking, cellular manufacturing and therapeutic business, as well as expand our businesses in Asia and other countries. Additionally, the company will be able to continue to develop its intellectual property and acquire new technology. \$2,500,000 will be placed in escrow pursuant to the terms of the offering.

The transactions are expected to close on or about November 19, 2010, subject to the satisfaction of customary closing conditions.

Each of these offerings is being made only by means of a prospectus supplement and accompanying prospectus. Copies of the final prospectus supplement and accompanying prospectus relating to each of these offerings may be obtained from the Securities and Exchange Commission's website at <http://www.sec.gov> or from the offices of Cowen and Company, LLC (c/o Broadridge Financial Solutions, 1155 Long Island Avenue, Edgewood, NY 11717, Attn: Prospectus Department (631) 254-7106).

A shelf registration statement relating to each of these offerings has previously been filed with the Securities and Exchange Commission and which became effective on May 11, 2010. This press release is neither an offer to sell nor a solicitation of an offer to buy any of the Company's securities. No offer, solicitation or sale will be made in any jurisdiction in which such offer, solicitation or sale is unlawful.

Further information regarding the offerings is contained in the Company's Current Report on Form 8-K to be filed with the Securities and Exchange Commission and which may be accessed at www.sec.gov.

About NeoStem, Inc.

NeoStem, Inc. is engaged in the development of stem cell-based therapies, pursuit of anti-aging initiatives and building of a network of adult stem cell collection centers in the U.S. and China that are focused on enabling people to donate and store their own (autologous) stem cells for their personal use in times of future medical need. The Company also has licensed various stem cell technologies, including a worldwide exclusive license to VSEL™ Technology which uses very small embryonic-like stem cells, shown to have several physical characteristics that are generally found in embryonic stem cells, and is pursuing the licensing of other technologies for therapeutic use. NeoStem's majority-controlled Chinese pharmaceutical operation, Suzhou Erye, manufactures and distributes generic antibiotics in China. For more information, please visit: <http://www.neostem.com> ..

Forward-Looking Statements

This press release contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements reflect management's current expectations, as of the date of this press release, and involve certain risks and uncertainties. Forward looking statements include statements herein with respect to the successful execution of the Company's strategy, accelerating Erye's sales growth in 2010 and successful transfer of Erye's production lines to the new facility, growth in revenues from the Company's China operations, as well as other advances in the Company's business, about which no assurances can be given. The Company's actual results could differ materially from those anticipated in these forward-looking statements as a result of various factors. Factors that could cause future results to materially differ from the recent results or those projected in forward-looking statements include the "Risk Factors" described in the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 31, 2010 as well as other periodic filings made with the Securities and Exchange Commission. The Company's further development is highly dependent on future medical and research developments and market acceptance, which is outside its control.

For more information, please contact:

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